TITLE 37—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

This title was enacted by Pub. L. 87-649, § 1, Sept. 7, 1962, 76 Stat. 451

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AMENDMENTS

1966—Pub. L. 89-554, § 5(a), Sept. 6, 1966, 80 Stat. 625, added the heading of chapter 10.

TABLE

Showing disposition of all sections of former Title 37.

Title 37 former sections	*Title 37 new sections*
1	Repealed. See 201, 203.
2	Repealed. See 201.
3	Repealed. See 203.
3a	Omitted. See 205; T. 10, §§ 1208, 1332, 1333, 1405.
4	Repealed. See 205(a)(1), (2)(C)-(E), (G), (H), (3).
4a	Repealed. See 205(a)(1).
4b	Repealed. See 205(a)(2).
4c	Repealed. See T. 10, §§ 3682, 8582.
4c-1	Repealed. See T. 10, § 6116.
5	Repealed. See 201, 201(b), (d), 203, 421(a).
6	Repealed. See 305(a).
7	Repealed. See 201, 203, 205.
8	Repealed. See 401(1), (2)(A), (3).
8a	Repealed. See 401(2).
9	Repealed. See 402(a), (c), (d).
9a	Omitted. See 402(d).
10	Repealed. See 403(a)-(c), (g).
10a	Omitted. See 403(a).
11	Repealed.
12	Repealed. See 201(a), 203, 402, 403, 414(a)(1), (4), (5).
13	Repealed. See 201(d), (g), 203, 308.
13a	Repealed. See 201(g), 203.
14	Repealed. See 201(d), (g), 203.
14a	Repealed. See 201(g), 203.
15	Repealed. See 201(g), 203.
16	Repealed. See 201(g), 203, 308.
16a	Repealed. See 308.
17	Repealed.
17a	Repealed.
18, 18a	Repealed. See 205.
19	Repealed. See 402, 403.
19a	Omitted. See 403.
20	Repealed. See 404, 405.
20a	Repealed. See 404(d).
21	Repealed. See 406.
21a	Repealed. See 401(2).
22	Repealed. See 201, 203.
23	Repealed. See 201, 203, 402, 403.
24, 25	Repealed.
26	Repealed. See 903.
26a	Omitted.
27	Repealed.
28	Repealed. See 201(c), 422(a).
29	Repealed. See 301(a)(1), (4).
29a	Repealed. See 301(d).
29b	Omitted. See 301(a)(6), (c).
30	Repealed.
31	Repealed. See notes prec. 101.
31a(a)	501(c); T. 10, §§ 701(a), (c)-(e), 703, 704(a), (b)(1)-(3).
31a(b)	501(f); T. 10, § 701(b).
31a(c)	T. 10, § 702(a).
32(a)	101(4), (23).
32(b)	501(a)(1).
32(c)	Unnecessary.
32(d)	501(a)(2).
32(e)	501(a)(3).
32(f)	101(5), 502; T. 10, §§ 702, 703, 704(a).
32(g)	501(b).
32(h)	501(a)(4).
33(a)	Executed.
33(b)	502, 503(a).
33(c)	501(b)-(d).
33(d)	501(e).
33(e)	T. 10, § 704(b)(1), (2), (4).
33a	Executed.
34	Expired.
35, 36	Executed.
37	Unnecessary.
38	504; T. 10, § 702(b).
39	501(b), 502(a), 503(a).
101	Repealed. See 201(a), 203, 205.
101a	Repealed.
101b	Repealed. See 302.
102	Repealed. See 305(a).
103	Repealed. See 201(a), 204(a)(2), (c), (i), 205, 404, 1004.
103a	Repealed. See 205.
103b	Repealed. See 205(d).
104, 105	Repealed. See 401, 402.
106	Repealed. See 403(a)-(d), (g).
107	Repealed. See 201(a), 203, 402, 403, 414(a)(1), (4), (5).
108	Repealed. See 201(d), 203, 205, 402, 403.
109	Repealed. See 201(g), 203, 205.
110	Repealed. See 308, 402, 403, 418.
111	Repealed.
111a	403(a).
111b	Omitted.
112	Repealed. See 404-406, 410(a)(5), (6), (9); T. 10, § 6153; T. 14, § 510.
112a	Omitted.
112b	Repealed. See 404(e), 408.
112c	Repealed. See T. 10, § 7477.
112d	Repealed. See 404(a)(3).
112e	Repealed. See 406.
112f	Repealed.
112g	Repealed. See 411(a).
112h, 112i	Repealed.
113	Repealed. See 201, 203.
114	Repealed. See 201, 203, 309(a), (c).
115, 115a	Omitted.
116	Repealed.
117	Repealed. See 201(c), 422(a).
117a	Omitted. See 410(a)(1).
117a-1	Omitted. See 410(a)(2), (4).
117b	Repealed. See 404, 406.
118	Repealed. See 301(a)(1), (4)-(6), (b), (c).

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Title 37 former sections	Title 37 new sections
118a	Omitted.
118a–1	301(g).
118b	Repealed. See 304(a).
119, 120	Repealed.
201–208	Repealed. See § 403.
208a	Executed.
209–231	Repealed. See § 403.
231(a)	101(3).
231(b)	101(23).
231(c)–(e)	101(11)–(13).
231(f)	101(5).
231(g)	401, 420.
231(h)	Repealed.
231(i)	101(22).
231(j)	See T 1, § 1.
231(k)	101(24).
232(a)	203.
232(b)	201(a).
232(c)	201(g); T. 10, § 517.
232(d)	204(a), (b), (d), (e).
232(e)	201(e).
233(a)(1)–(6)	205(a)(1)–(6).
233(a)(7)	205(a)(7), (8), (b), (c).
233(b)	205(a)(9).
233(c)	205(d).
233(d)	205(a), (b).
234(a)	302(a).
234(b)	302(a).
234(b)(1)	302(b)(1).
234(b)(2)	303(a).
234(b)(3)–(4)	302(b)(2), (3).
234(b)(5)	302(b)(4), (c), 303(b).
234(c)	303(a).
234a	Repealed. See 302(a)(2).
234b	Omitted.
235(a)(1)	301(a)(1).
235(a)(2)	301(a)(2), (3).
235(a)(3)–(10)	301(a)(4)–(11)
235(b)–(e)	301(b)–(e).
235a	901.
236(a), (b)	304(a).
236(c)	304(b).
237	305(a).
237a	305(b).
238(a)	Omitted. See 308(a)–(c), (e).
238(b)	Omitted. See 308(a).
238(c)	Omitted.
238(d)–(f)	Omitted. See 308(d)–(f).
239(a)–(d)	308(a)–(d).
239(e)	308(a).
239(f), (g)	308(e), (f).
240	307.
241	306.
242	Omitted. See T. 50 App. §§ 1002(a), 1006.
243	902(c).
244	Omitted. See T. 50 App. §§ 1002(a), 1006.
251(a)	402(a)–(c).
251(b), (c)	402(b).
251(d)	402(f).
251(e), (f)	402(d), (e).
251(a)	402(b).
252(a)–(d)	403(a)–(d).
252(e)	403(g).
252(f)	403(a).
252(g)–(k)	T. 50 App. § 2204(a)–(e).
253(a)	404(a)–(d), (f).
253(b)	405.
253(c)	406, 407, 409, 411(d).
253(d)	404(e).
253(e)	410.
253(f), (g)	411(b), (c).
253(h)	411(a).
253a	Omitted. See 305(b).
254(a)	414(a)(1).
254(b)	414(a)(4).
254(c)	414(a)(2), (5).
254(d)	414(a)(3).
255(a)	415(a)–(c), 417(c).
255(b), (c)	416(a), (b).
255(d)	417(b).
255(e)	417(a).
256	415(e).
256a	419.
271	Repealed. See T. 10, §§ 1204, 1376.
272(a)	Repealed. See T. 10, §§ 1201–1204.
272(b)	Repealed. See T. 10, §§ 1201–1203.
272(c)	Repealed. See T. 10, §§ 1201, 1204—1206.
272(d)	Repealed. See T. 10, §§ 1210(h), 1372, 1373, 1401, 1402(b)–(d).
272(e)	Repealed. See T. 10, §§ 1210(a)–(f), 1401.
272(f)	Repealed. See T. 10, §§ 1201, 1204, 1210(d).
272(g)	Repealed. See T. 10, § 1209.
272(h)	Repealed. See T. 10, § 1403.
272(i)	Repealed. See T. 10, § 1215.
273	Repealed. See T. 10, § 1212.
274	Repealed. See T. 10, § 1210(a), (g).
275	Repealed. See T. 10, § 1211(a), (b), (e), (f).
276	Repealed. See T. 10, § 1211(a)–(d).
277	Repealed. See T. 10, § 1211(a), (b), (e).
278	Repealed. See T. 10, § 1207.
279	Repealed. See T. 10, §§ 1372, 1373.
280	Repealed. See T. 10, § 1213.
281	Repealed.
282	Repealed. See T. 10, 1203.
283	Repealed. See T. 10, §§ 1214, 1216(a).
284	Repealed. See T. 10, § 1216(b), (c).
285	Repealed.
301(a)	206(a), (b), 402(b).
301(b)	206(d), 1002(a)–(c).
301(c)	309(a), (b).
301(d)	301(f).
301(e)	206(a), 301(f), 309(c), 402(b), 1002(d).
301(f)	Repealed.
302	T. 33, § 853o-1.
303	423.
304	201(b), 421.
305	418.
306	Repealed. See T. 10, § 6153; T. 14, § 510.
307	Omitted.
308	201(c), 423(a).
308a	204(f).
309, 310	1003, 1004.
310a	Omitted. See T. 5, § 5505.
310b	1005.
310c	1006(a), (b), (e).
310c–1	1006(c).
310d	1006(d).
311	Omitted.
312	Repealed.
313	Omitted.
314	903.
315	Expired.
316	Repealed. See T. 10, § 1402a; T. 33, § 857a; T. 42, § 213a.
317	Omitted.
318, 319	Repealed.
320	403(f).
321	Executed.
321a	Omitted.
322, 322a	Executed.
323	801(c).
324	1001.
351	101(3), 601.
352	602(a)–(e).
353	602(f), 603.
354	604.
361	Repealed. See 101(3), (5), (23).
362	Repealed. See T. 10, § 2771(a); T. 32, § 714(a).
363	Repealed. See T. 10, § 2771(c), (d); T. 32, § 714(c), (d).
364	Repealed. See T. 10, § 2771 note.
365	Repealed.
371(a)	Repealed.
371(b), (c)	Repealed. See T. 10, § 1431(a).
371(d)	Repealed.
371(e), (f)	Repealed. See T. 10, § 1435(1), (2).
371(g)	Repealed.
371(h)	Repealed. See T. 10, § 101(5), (7), (8).
372(a)	Repealed. See T. 10, §§ 1431(a)–(c), 1432.
372(b)	Repealed. See T. 10, § 1431(b).

Title 37 former sections	Title 37 new sections
372(c)	Repealed. See T. 10, § 1433.
372a–372c	Expired.
373(a)	Repealed. See T. 10, § 1434(a)(1)–(3).
373(b)	Repealed. See T. 10, § 1434(b).
373(c)	Repealed. See T. 10, §§ 1434(a)(4), 1436.
373(d)	Repealed. See T. 10, § 1439.
374	Repealed. See T. 10, § 1438.
375	Repealed. See T. 10, § 1444.
376	Repealed. See T. 10, § 1442.
377	Repealed. See T. 10, §§ 1443, 1444(a), (b).
378	Repealed. See T. 10, § 1440.
379	Repealed. See T. 10, § 1437.
380	Repealed. See T. 10, § 1441.
381	Repealed.
401	Repealed. See T. 10, § 1071.
402(a)(1)	Repealed. See T. 10, § 1072(1).
402(a)(2)	Repealed. See T. 10, §§ 1076(a), 1079(a).
402(a)(3)	Repealed. See T. 10, §§ 1074(b), 1076(b).
402(a)(4)(A)–(D)	Repealed. See T. 10, § 1072(2)(A)–(D).
402(a)(4)(E)	Repealed. See T. 10, § 1072(2)(E)(i).
402(a)(4)(F)	Repealed. See T. 10, § 1072(2)(F).
402(a)(4)(G)(i), (ii)	Repealed. See T. 10, § 1072(2)(E)(ii)(iii).
402(b)	Repealed. See T. 10, § 1073.
403(a)	Repealed. See T. 10, § 1076(a), (c).
403(b)	Repealed. See T. 10, § 1076(d).
403(c)–(e)	Repealed. See T. 10, § 1078(a)–(c).
403(f)(1)–(5)	Repealed. See T. 10, § 1077(a)(1)–(5).
403(g)(1)	Repealed. See T. 10, § 1077(b).
403(g)(2)	Repealed. See T. 10, § 1077(a)(6), (b).
403(h)(1)–(3)	Repealed. See T. 10, § 1077(c)(1)–(3).
403(h)(4)(A)–(C)	Repealed. See T. 10, § 1077(c)(1)–(3).
404	Repealed. See T. 10, § 1084.
405	Repealed.
411(a), (b)	Repealed. See T. 10, § 1079(a), (b).
411(c)	Repealed. See T. 10, § 1080.
412, 413	Repealed. See T. 10, §§ 1081, 1082.
414	Repealed. See T. 10, § 1079(b).
421(a), (b)	Repealed. See T. 10, § 1074(a), (b).
421(c)	Repealed. See T. 10, § 1076(b), (c).
421(d)	Repealed. See T. 10, § 1085.
422	Repealed. See T. 10, § 1075.
423	Repealed. See T. 10, § 1083.

Enacting Clause

Pub. L. 87-649, § 1, Sept. 7, 1962, 76 Stat. 451, provided in part: "That the laws relating to pay and allowances of the uniformed services of the United States are revised, codified, and enacted as title 37 of the United States Code, entitled 'Pay and Allowances of the Uniformed Services'."

Effective Date

Pub. L. 87-649, § 15, Sept. 7, 1962, 76 Stat. 502, provided in part that: "This Act shall take effect on November 1, 1962."

Inconsistent Provisions

Pub. L. 87-649, § 15, Sept. 7, 1962, 76 Stat. 502, provided in part that: "Laws enacted after January 9, 1962, that are inconsistent with this Act shall supersede it to the extent of the inconsistency."

Savings and Severability Provisions

Pub. L. 87-649, § 12, Sept. 7, 1962, 76 Stat. 497, provided that:

"(a) In sections 1-11 of this Act, it is the legislative purpose to restate, without substantive change, the law replaced by those sections on the effective date of this Act [Nov. 1, 1962]. However, laws effective after January 9, 1962, that are inconsistent with this Act, shall be considered as superseding it to the extent of the inconsistency.

"(b) References that other laws, regulations, and orders make to the replaced law shall be considered to be made to the corresponding provisions of sections 1-11 of this Act.

"(c) Actions taken under the replaced law shall be considered to have been taken under the corresponding provisions of sections 1-11 of this Act.

"(d) If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

"(e) The enactment of this Act does not increase or decrease the pay or allowances, including retired or retainer pay, of any person."

Restatement of Suspended or Temporarily Superseded Provisions

Pub. L. 87-649, § 13, Sept. 7, 1962, 76 Stat. 498, provided that: "If on the effective date of this Act [Nov. 1, 1962], a provision of law that is restated in this Act and repealed by section 14 would have been in a suspended or temporarily superseded status but for its repeal, the provisions of this Act that restate that provision have the same suspended or temporarily superseded status."

Repeals

Pub. L. 87-649, § 14, Sept. 7, 1962, 76 Stat. 498, repealed the sections or parts of sections of the Revised Statutes or Statutes at Large covering provisions codified in this title, "except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act [Nov. 1, 1962] and except as provided in section 12."

CHAPTER 1—DEFINITIONS

Sec.
101. Definitions.

§ 101. Definitions

In addition to the definitions in sections 1-5 of title 1, for the purposes of this title—

(1) "United States", in a geographic sense, means the States and the District of Columbia;

(2) "possessions" includes the Canal Zone, Guam, American Samoa, and the guano islands;

(3) "uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Science Services Administration, and Public Health Service;

(4) "armed forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard;

(5) "Secretary concerned" means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force;

(D) the Secretary of Transportation, with respect to matters concerning the Coast Guard when it is not operating as a service in the Navy;

(E) the Secretary of Commerce, with respect to matters concerning the Environmental Science Services Administration; and

(F) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service;

(6) "National Guard" means the Army National Guard and the Air National Guard;

(7) "Army National Guard" means that part of the organized militia of the several States, Puerto Rico, the Canal Zone, the Virgin Islands, and the District of Columbia, active and inactive, that—

(A) is a land force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized;

(8) "Army National Guard of the United States" means the reserve component of the Army all of whose members are members of the Army National Guard;

(9) "Air National Guard" means that part of the organized militia of the several States, Puerto Rico, the Canal Zone, the Virgin Islands, and the District of Columbia, active and inactive, that—

(A) is an air force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized;

(10) "Air National Guard of the United States" means the reserve component of the Air Force all of whose members are members of the Air National Guard;

(11) "officer" means commissioned or warrant officer;

(12) "commissioned officer" includes a commissioned warrant officer;

(13) "warrant officer" means a person who holds a commission or warrant in a warrant officer grade;

(14) "enlisted member" means a person in an enlisted grade;

(15) "grade" means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation;

(16) "rank" means the order of precedence among members of the uniformed services;

(17) "rating" means the name (such as "boatswain's mate") prescribed for members of a uniformed service in an occupational field; "rate" means the name (such as "chief boatswain's mate") prescribed for members in the same rating or other category who are in the same grade (such as chief petty officer or seaman apprentice);

(18) "active duty" means full-time duty in the active service of a uniformed service, and includes duty on the active list, full-time training duty, annual training duty, and attendance, while in the active service, at a school designated as a service school by law or by the Secretary concerned;

(19) "active duty for a period of more than 30 days" means active duty under a call or order that does not specify a period of 30 days or less;

(20) "active service" means service on active duty;

(21) "pay" includes basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances;

(22) "inactive-duty training" means—

(A) duty prescribed for members of a reserve component by the Secretary concerned under section 206 of this title or any other law; and

(B) special additional duties authorized for members of a reserve component by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned;

and includes those duties when performed by members of a reserve component in their status as members of the National Guard, but does not include work or study in connection with a correspondence course of a uniformed service;

(23) "member" means a person appointed or enlisted in, or conscripted into, a uniformed service; and

(24) "reserve component" means—

(A) the Army National Guard of the United States;

(B) the Army Reserve;

(C) the Naval Reserve;

(D) the Marine Corps Reserve;

(E) the Air National Guard of the United States;

(F) the Air Force Reserve;

(G) the Coast Guard Reserve; or

(H) the Reserve Corps of the Public Health Service.

(25) "regular compensation" or "regular military compensation (RMC)" means the total of the following elements that a member of a uniformed service accrues or receives, directly or indirectly, in cash or in kind every payday: basic pay, basic allowance for quarters, basic allowance for subsistence; and Federal tax advantage accruing to the aforementioned allowances because they are not subject to Federal income tax.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 451; Pub. L. 89-718, § 49(a)(1), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 90-623, § 3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 92-492, § 3, Oct. 13, 1972, 86 Stat. 810; Pub. L. 93-419, § 1, Sept. 19, 1974, 88 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
101(1).....	[No source.]	Aug. 9, 1946, ch. 931, § 2 (less (b), (c), (d), (e), (f) (less last 8 words), (g), and (h)), 60 Stat. 963.
101(2).....	[No source.]	
101(3).....	37:231(a), (j).	
101(4).....	37:32(a). 37:231(k).	
101(5).....	37:32(f) (less last 8 words). 37:231(f).	Oct. 12, 1949, ch. 681, § 102 (less (g)), 63 Stat. 804.
101(6).....	[No source.]	
101(7).....	[No source.]	
101(8).....	[No source.]	
101(9).....	[No source.]	
101(10).....	[No source.]	
101(11).....	37:231(c).	
101(12).....	37:231(d).	
101(13).....	37:231(e), (h).	
101(14).....	[No source.]	
101(15).....	[No source.]	
101(16).....	[No source.]	
101(17).....	[No source.]	
101(18).....	[No source.]	
101(19).....	[No source.]	
101(20).....	[No source.]	
101(21).....	[No source.]	
101(22).....	37:231(i).	
101(23).....	37:231(b).	
101(24).....	[No source.]	

The definitions in clauses (1) and (2), (6)–(10), (14)–(21), and (24) reflect the adoption of terminology which, though undefined in the source statutes restated in this revised title, represent the closest practicable approximation of the ways in which the terms defined have been most commonly used, and so far as possible are identical to those used in title 10, United States Code, containing most of the basic law relating to the armed forces.

In clause (3), the words "and all Regular and Reserve components thereof", in section 231(a) of existing title 37, are omitted as surplusage. Section 231(j) of existing title 37 is omitted as covered by section 1 of title 1.

In clause (4), that part of section 32(a) of existing title 37 relating other than to the enumeration of the armed forces is omitted as unnecessary. Section 231(k) of existing title 37 is omitted, since throughout the revised title references to members of the Army or Air Force without specification of component are specifically included when necessary.

In clause (11), the words "flight officer" are omitted as obsolete. Section 231(c) (last sentence) of existing title 37 is omitted as unnecessary.

In clause (12), the definition of commissioned officer is broadened and restated to conform to the definition in section 101(15) of title 10. Corresponding changes are made throughout the revised title to correspond to the definition.

Clause (13), which is identical to section 101(16) of title 10, is substituted for section 231(e) of existing title 37. The words "flight officer" are omitted as obsolete. Section 231(h) of existing title 37 is omitted, since the defined term is not used in the revised title.

Clause (22) is substituted for section 231(i) of existing title 37.

In clause (23), section 231(b) (less 1st sentence) of existing title 37 is omitted as executed by the express coverage of members of the Fleet Reserve and Fleet Marine Corps Reserve.

AMENDMENTS

1974—Cl. (25). Pub. L. 93–419 added cl. (25).

1972—Cls. (7), (9). Pub. L. 92–492 added references to the Virgin Islands.

1968—Cl. (5)(D). Pub. L. 90–623 substituted "Secretary of Transportation" for "Secretary of the Treasury".

1966—Cls. (3) and (5)(E). Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–419 effective Sept. 19, 1974, see section 9 of Pub. L. 93–419, set out as an Effective Date note under section 1009 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–356, § 1, July 12, 1976, 90 Stat. 901, provided: "That this Act [enacting sections 312b and 312c of this title, amending section 312 of this title, and enacting provisions set out as notes under sections 301 and 312 of this title] may be cited as the 'Nuclear Career Incentive Act of 1975'."

SHORT TITLE OF 1974 AMENDMENTS

Pub. L. 93–294, § 1, May 31, 1974, 88 Stat. 177, provided: "That this Act [amending section 301 of this title, enacting section 301a of this title, and enacting provisions set out as notes under section 301a of this title] may be cited as the 'Aviation Career Incentive Act of 1974'."

Pub. L. 93–277, § 1, May 10, 1974, 88 Stat. 119, provided: "That this Act [amending sections 308 and 308a of this title and enacting provisions set out as notes under section 308 of this title] may be cited as the 'Armed Forces Enlisted Personnel Bonus Revision Act of 1974'."

SHORT TITLE OF 1963 AMENDMENT

Pub. L. 88–132, § 1, Oct. 2, 1963, 77 Stat. 210, provided: "That this Act [enacting sections 310 and 427 of this title and section 1401a of Title 10, Armed Forces; amending sections 201, 203, 301, 302, 305, 403, and 421 of this title, sections 1401, 1402, 3991, 6151, 6323, 6325 to 6327, 6381, 6383, 6390, 6394, 6396, 6398 to 6400, 6483, and 8991 of Title 10, section 423 of Title 14 Coast Guard, section 857a of Title 33, Navigation and Navigable Waters, and section 213a of Title 42, The Public Health and Welfare; repealing section 6149 of Title 10 and sections 2351 to 2356 of Title 50, Appendix, War and National Defense, and enacting provisions set out as notes under sections 201, 203, and 305 of this title, section 1402 of Title 10, and section 411 of Title 38, Veterans' Benefits] may be cited as the 'Uniformed Services Pay Act of 1963'."

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of the Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

In order to implement the provisions of Reorganization Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, the following organizational names ap-

pearing in chapter IX of subtitle B of Title 15, Code of Federal Regulations, which covers the administration of the National Oceanic and Atmospheric Administration, were changed by order of the Acting Associate Administrator, 35 F.R. 19249, Dec. 19, 1970, as follows: Environmental Science Services Administration to National Oceanic and Atmospheric Administration (ESSA to NOAA); Coast and Geodetic Survey to National Ocean Survey; and Weather Bureau to National Weather Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 sections 3326, 3501, 5531; title 10 section 2774; title 20 sections 238, 635; title 26 section 6013; title 32 section 716; title 33 section 857-1; title 42 sections 1594j-1, 1973cc-21.

CHAPTER 3—BASIC PAY

Sec.
201. Pay grades: assignment to; general rules.
202. Pay grades: assignment to; rear admirals of upper half; officers holding certain positions in the Navy.
203. Rates.
204. Entitlement.
205. Computation: service creditable.
206. Reserves; members of National Guard: inactive-duty training.
207. Band leaders.
[208. Repealed.]
209. Members of Senior Reserve Officers' Training Corps.

AMENDMENTS

1970—Pub. L. 91-482, § 2F, Oct. 21, 1970, 84 Stat. 1082, struck out item 208, which read: "Furlough pay: officers of Regular Navy or Regular Marine Corps."

1964—Pub. L. 88-647, title II, § 202(5), Oct. 13, 1964, 78 Stat. 1071, substituted "Senior Reserve Officers' Training Corps" for "naval officer candidate programs" in item 209.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 402, 406, 1003 of this title.

§ 201. Pay grades: assignment to; general rules

(a) For the purpose of computing their basic pay, commissioned officers of the uniformed services (other than commissioned warrant officers) are assigned by the grade or rank in which serving to the following pay grades:

Pay grade	Army, Air Force, and Marine Corps	Navy, Coast Guard, and Environmental Science Services Administration	Public Health Service
O-10	General	Admiral	
O-9	Lieutenant general.	Vice admiral	
O-8	Major general.	Rear admiral (upper half).	Surgeon General. Deputy Surgeon General. Assistant Surgeon General having rank of major general.
O-7	Brigadier general.	Rear admiral (lower half) and commodore.	Assistant Surgeon General having rank of brigadier general.
O-6	Colonel	Captain	Director grade.
O-5	Lieutenant colonel.	Commander	Senior grade.
O-4	Major	Lieutenant commander.	Full grade.
O-3	Captain	Lieutenant	Senior assistant grade.
O-2	1st lieutenant.	Lieutenant (junior grade).	Assistant grade.
O-1	2d lieutenant.	Ensign	Junior assistant grade.

(b) A contract surgeon who is serving full time with a uniformed service is entitled to the basic pay of a commissioned officer in pay grade O-3 with over four, but not more than six, years of service computed under section 205 of this title.

(c) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to monthly pay at the rate of 50 percent of the basic pay of a commissioned officer in pay grade O-1 with two or less years of service computed under section 205 of this title.

(d) For the purpose of computing their basic pay, warrant officers of the armed forces are assigned, by the warrant officer grade in which serving, to the following pay grades:

Pay Grade	Warrant Officer Grade
W-4	Chief Warrant Officer, W-4.
W-3	Chief Warrant Officer, W-3.
W-2	Chief Warrant Officer, W-2.
W-1	Warrant Officer, W-1.

(e) An aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard is entitled to monthly basic pay at the rate of 50 percent of the basic pay of a commissioned officer in pay grade O-1 with two or less years of service computed under section 205 of this title.

(f) Unless he is entitled to the basic pay of a higher pay grade, an aviation pilot of the Naval Reserve, Marine Corps Reserve, or Coast Guard Reserve is entitled to monthly basic pay at the rate prescribed for pay grade E-5.

(g) Except as provided by subsections (e) and (f) of this section, enlisted members of the uniformed services shall, for the purpose of computing their basic pay, be distributed by the Secretary concerned in the various enlisted pay grades set forth in section 203 of this title. However, except as provided by section 307 of this title, an enlisted member may not be placed in pay grade E-8 or E-9 until he has completed at least 8 years or 10 years, respectively, of enlisted service computed under section 205 of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 453; Pub. L. 88-132, § 3(a), Oct. 2, 1963, 77 Stat. 212; Pub. L. 89-718, § 49(a)(1), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 91-278, § 3(1), June 12, 1970, 84 Stat. 306.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
201(a).....	37:232(b).	Oct. 12, 1949, ch. 681, § 201(b), restated May 20, 1958, Pub. L. 85-422, § 1(2), 72 Stat. 124.
201(b).....	37:304 (as applicable to basic pay).	Oct. 12, 1949, ch. 681, § 504 (as applicable to basic pay), 63 Stat. 827.
201(c).....	37:308 (as applicable to pay).	Oct. 12, 1949, ch. 681, § 508 (as applicable to pay), 63 Stat. 828; May 19, 1952, ch. 310, § 1(e), 66 Stat. 80; Mar. 31, 1955, ch. 20, § 2(14), 69 Stat. 22.
201(d).....	10:555(a) (as applicable to pay grades).	[None.]
201(e).....	37:232(e).	Oct. 12, 1949, ch. 681, § 201(e); added Mar. 31, 1955, ch. 20, § 2(3), 69 Stat. 19.
201(f).....	10:6915(f).	[None.]
	14:758a(f).	[None.]
201(g).....	37:232(c) (less last sentence).	Oct. 12, 1949, ch. 681, § 201(c) (less last sentence), 63 Stat. 807; redesignated as "(c)" by Mar. 31, 1955, ch. 20, § 2(2), 69 Stat. 19; May 20, 1958, Pub. L. 85-422, § 1(3) (first sentence), 72 Stat. 124.

In subsection (a), the words "whether under temporary or permanent appointment" are omitted as surplusage. The words "the following pay grades" are substituted for the words "the various pay grades prescribed for commissioned officers by subsection (a) of this section, as follows". The words "(other than a commissioned warrant officer)" are inserted to conform to the definition of "warrant officer" in section 101(13) of this revised title.

In subsection (b), the words "with two or less years of service computed under section 205 of this title" are substituted for the word "minimum".

In subsections (c) and (e), the words "with two or less years of service computed under section 205 of this title" are substituted for the words "with under two cumulative years' service" and "with under two cumulative years of service", in sections 308 and 232(e), respectively, of existing title 37.

In subsection (e), the words "enlisted or appointed under the Army Aviation Cadet Act, as amended, or under the Naval Aviation Cadet Act of 1942, as amended" are omitted as obsolete and surplusage. Both of the cited acts were repealed by section 53 of the Act of August 10, 1956, ch. 1041 (70A Stat. 641), and replaced by various sections of title 10. Further reference is surplusage, however, since aviation cadets are not appointed or enlisted under any provision of law other than the sections of title 10 embodying the former Army Aviation Cadet Act and the Naval Aviation Cadet Act of 1942. The word "basic" is inserted for clarity, since the word "pay" as defined in section 101(21) of this revised title includes special and incentive pays. Incentive pay for aviation cadets is provided in section 301(b) of this revised title.

In subsection (f), the words "While on active duty", in section 6915(f) of title 10 and section 758a(f) of title 14, are omitted as covered by section 204 of this title which prescribes the conditions under which members of the uniformed services are entitled to basic pay. The words "Unless he is entitled to the basic pay of a higher pay grade" are substituted for the words "or that of his grade, whichever is greater" in section 6915(f) of title 10 and section 758a(f) of title 14.

In subsection (g), the words "Except as provided by subsections (e) and (f)" are inserted to reflect those subsections relating to enlisted aviation cadets or aviation pilots.

AMENDMENTS

1970—Subsec. (e). Pub. L. 91-278 entitled aviation cadets of Coast Guard to basic pay rate.

1966—Subsec. (a). Pub. L. 89-718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey" in the heading of the third column of the table.

1963—Subsec. (b). Pub. L. 88-132 substituted "O-3 with over four, but not more than six," for "O-2 with two or less".

CHANGE OF NAME

The commissioned officer corps of the Environmental Science Services Administration was changed to the commissioned officer corps of the National Oceanic and Atmospheric Administration, see Reorg. Plan No. 4 of 1970, § 4(d), eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1963 AMENDMENT

Section 14 of Pub. L. 88-132 provided that: "This Act [see Short Title of 1963 Amendment note set out under section 101 of this title] becomes effective on October 1, 1963."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Warrant officer grades, see section 555 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 209 of this title; title 10 section 555.

§ 202. Pay grades: assignment to; rear admirals of upper half; officers holding certain positions in the Navy

(a) An officer not restricted in the performance of duty on the active list in the line of the Navy serving in the grade of rear admiral is entitled to the basic pay of a rear admiral of the upper half from the date on which the number of officers not restricted in the performance of duty on the active list in the line of the Navy serving in the grade of rear admiral below him on the lineal list becomes equal to or greater than the number of such officers above him on the lineal list. For the purpose of determining the number of rear admirals of the upper half, an officer not restricted in the performance of duty on the active list in the line of the Navy

serving in the grade of admiral or vice admiral is considered as having the grade and position on the lineal list he would have if he had not been appointed admiral or vice admiral.

(b) An officer restricted in the performance of duty on the active list in the line of the Navy serving in the grade of rear admiral is entitled to the basic pay of a rear admiral of the upper half from the date on which any officer below him on the lineal list becomes entitled to that pay under subsection (a) of this section.

(c) An officer on the active list of the Navy in a staff corps serving in the grade of rear admiral is entitled to the basic pay of a rear admiral of the upper half from the date on which his running mate becomes entitled to that pay under this section, but not before the date of the vacancy he was promoted to fill.

(d) A rear admiral of the Naval Reserve entitled to basic pay is entitled to the basic pay of a rear admiral of the upper half when any officer on the active list in the line of the Navy junior to him is in the upper half of the grade of rear admiral as determined under subsection (a) of this section.

(e) An officer of the Navy or the Coast Guard holding a permanent appointment in the grade of rear admiral on the retired list who is entitled to the basic pay of a rear admiral of the lower half and who, in time of war or national emergency, has served satisfactorily on active duty for two years in that grade or in a higher grade is entitled when on active duty to the basic pay of a rear admiral of the upper half.

(f) The number of rear admirals on the active list of the Coast Guard entitled to the basic pay of a rear admiral of the upper half is one-half of the number of officers on the active list in grades above captain, less the number of officers serving in grades above rear admiral. If the division results in an odd number, the odd number shall be placed in the upper half. However, an officer who is entitled to the basic pay of a rear admiral of the upper half may not have his basic pay reduced solely because the number of rear admirals is reduced.

(g) Unless appointed to a higher grade under another provision of law, an officer of the Marine Corps, while serving as Judge Advocate General of the Navy or as Deputy Judge Advocate General of the Navy, is entitled to the basic pay of a major general.

(h) Unless appointed to a higher grade under another provision of law, an officer of the naval service who is serving in one of the following positions is entitled to the basic pay of a rear admiral of the upper half—

(1) Director of Budget and Reports;

[(2) Repealed. Pub. L. 89-718, § 50(2), Nov. 2, 1966, 80 Stat. 1121;]

(3) Chief of a Bureau;

(4) Chief of the Dental Division in the Bureau of Medicine and Surgery;

(5) Chief of Chaplains;

(6) Judge Advocate General of the Navy;

(7) Deputy Judge Advocate General of the Navy; or

(8) Chief of Naval Research.

(i) An officer of the naval service who is serving in one of the following positions is entitled to the highest pay of his rank—

(1) Assistant Director of Budget and Reports;

(2) Detailed to duty as a Deputy Chief of a Bureau;

(3) Assistant Chief of Naval Research; or

(4) Assistant Commandant of the Marine Corps.

(j) An officer on the active list of the Navy in the grade of rear admiral who is serving as Deputy Comptroller of the Navy is entitled to the basic pay of a rear admiral of the upper half.

(k) While serving under an appointment under section 5767(c) of title 10, a woman officer of the Navy is entitled to the pay of a rear admiral of the lower half.

(*l*) Unless appointed to a higher grade under another provision of law, an officer of the Navy or Marine Corps serving as Assistant Judge Advocate General of the Navy is entitled to the basic pay of a rear admiral (lower half) or brigadier general, as appropriate.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 454; Pub. L. 89-718, § 50, Nov. 2, 1966, 80 Stat. 1121; Pub. L. 90-130, § 3(1), Nov. 8, 1967, 81 Stat. 383; Pub. L. 90-179, § 7, Dec. 8, 1967, 81 Stat. 548; Pub. L. 90-623, § 3(2), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 92-451, § 2, Oct. 2, 1972, 86 Stat. 757.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
202(a)	10:5507(a).	[None.]
202(b)	10:5507(b).	[None.]
202(c)	10:5507(c).	[None.]
202(d)	10:5507(d).	[None.]
	14:462a (less applicability to retired pay).	[None.]
202(e)	10:5507(e).	[None.]
202(f)	14:462.	[None.]
202(g)	10:5133(a) (last 13 words of last sentence).	[None.]
202(h)	10:5064(b) (the words, "pay, allowances,").	[None.]
	10:5111(b) (the words "pay, allowances, and").	[None.]
	10:5133(a) (last 20 words of 1st sentence).	[None.]
	10:5138(b) (the words "pay, allowances, and").	[None.]
	10:5142 (last sentence).	[None.]
	10:5145(c) (last 12 words).	[None.]
	10:5148(b) (the words "pay, allowances,").	[None.]
	10:5150(c) (the words, "pay, allowances,").	[None.]
202(i)	10:5064(c) (last sentence).	[None.]
	10:5134.	[None.]
	10:5149(a) (last sentence).	[None.]
	10:5150(d) (last sentence).	[None.]
	10:5202(a) (last sentence).	[None.]
202(j)	10:5062.	[None.]

In subsections (a)–(j), the words "and allowances" are omitted as surplusage, since, under chapter 7 of this revised title, entitlement to allowances is based upon entitlement to basic pay.

In subsection (f), the words "provided by law", "this or any other", and "for any reason" are omitted as surplusage.

In subsection (g), the words "Judge Advocate General of the Navy" are inserted to reflect section 5148 of title 10.

In subsection (l), the last 12 words of section 5145(c) of title 10 are omitted as covered by section 5134 of title 10.

AMENDMENTS

1972—Subsec. (f). Pub. L. 92-451 struck out "Except for those whose basic pay is otherwise specifically authorized by law," and substituted "in grades above captain, less the number of officers serving in grades above rear admiral", for "in that grade" in the first sentence.

1968—Subsec. (*l*). Pub. L. 90-623 redesignated as subsec. (*l*) the subsection relating to basic pay of the Assistant Judge Advocate General of the Navy, formerly designated as subsec. (k).

1967—Subsec. (g). Pub. L. 90-179, § 7(1), inserted "or as Deputy Judge Advocate General of the Navy,".

Subsecs. (h)(7), (8). Pub. L. 90-179, § 7(2)(B), (C), added par. (7) and renumbered former par. (7) as par. (8).

Subsec. (i). Pub. L. 90-179, § 7(3), struck out par. (3) which referred to an officer detailed as Assistant Judge Advocate of the Navy and renumbered pars. (4) and (5) as pars. (3) and (4), respectively.

Subsec. (k). Pub. L. 90-179, § 7(4), added subsec. (k), relating to officer of the Navy or Marine Corps serving as Assistant Judge Advocate General of the Navy.

Pub. L. 90-130 added subsec. (k) relating to a woman officer appointed under section 5767(c) of title 10.

1966—Subsec. (g). Pub. L. 89-718, § 50(1), struck out reference to service as Chief of the Bureau of Naval Weapons.

Subsec. (h). Pub. L. 89-718, § 50(2), struck out clause (2) relating to Chief of Naval Materiel.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92-451, set out as an Effective Date of 1972 Amendment note under section 290 of Title 14, Coast Guard.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change of law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

§ 203. Rates

(a) The rates of monthly basic pay for members of the uniformed services within each pay grade are those prescribed in accordance with section 1009 of this title.

(b) While serving as a permanent professor at the United States Military Academy or the United States Air Force Academy or as a member of the permanent commissioned teaching staff at the United States Coast Guard Academy, an officer who has over 36 years of service computed under section 205 of this title is, in addition to the pay and allowances to which he is otherwise entitled under this title, entitled to additional pay in the amount of $250 a month. This additional pay may not be used in the computation of retired pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 456; Pub. L. 88-132, § 2, Oct. 2, 1963, 77 Stat. 210; Pub. L. 88-422, § 1, Aug. 12, 1964, 78 Stat. 395; Pub. L. 89-132, § 1, Aug. 21, 1965, 79 Stat. 545; Pub. L. 89-501, title III, § 301, July 13, 1966, 80 Stat. 276; Pub. L. 90-207, § 1(1), Dec. 16, 1967, 81 Stat. 649; Pub. L. 91-278, § 3(2), June 12, 1970, 84 Stat. 306; Pub. L. 92-129, title II, § 201, Sept. 28, 1971, 85 Stat. 355; Pub. L. 92-455, § 3, Oct. 2, 1972, 86 Stat. 761; Pub. L. 93-419, § 2, Sept. 19, 1974, 88 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
203	10:142(d) (as applicable to basic pay).	[None.]
	37:232(a).	Oct. 12, 1949, ch. 681, § 201(a); May 19, 1952, ch. 310, § 1(a); restated Mar. 31, 1955, ch. 20, § 2(1); restated May 20, 1958, Pub. L. 85-422, § 1(1), 72 Stat. 122.

Section 142(d) (as applicable to basic pay) of title 10 is omitted as superseded by footnote 1 of section 232(a) of existing title 37. The words "pay grades are prescribed" are omitted as covered by section 201 of this revised title. The words "rates of monthly basic pay . . . are" are substituted for the words "monthly basic pay . . . is established". The words "according to cumulative years of service" are omitted as covered by the words "years of service computed under section 205" appearing in each table.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-419 substituted reference to section 1009 of this title for provisions setting out in tables the rates of monthly basic pay for members of the uniformed services.

1972—Subsec. (a). Pub. L. 92-455 substituted in footnote 1 of the enlisted members pay table "Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard," for "Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps,".

1971—Subsec. (a). Pub. L. 92-129 increased the rates of monthly basic pay for all personnel.

1970—Subsec. (b). Pub. L. 91-278 provided for entitlement to additional pay for service as a member of the permanent commissioned teaching staff at the United States Coast Guard Academy.

1967—Subsec. (a). Pub. L. 90-207 increased the rates of monthly basic pay for all personnel by 5.6 percent and provided a special basic pay rate of $844.20 per month for the senior noncommissioned officer position of each military service regardless of years of service completed for pay purposes.

1966—Subsec. (a). Pub. L. 89-501 increased the pay of all personnel by 3.2 percent.

1965—Subsec. (a). Pub. L. 89-132 increased the pay of commissioned officers with less than 2 years of service an average of 22 percent, of commissioned officers and warrant officers with over 2 years of service an average of 6 percent, enlisted men with 2 years of service an average of 17.3 percent, and enlisted men with over 2 years of service an average of 11 percent.

1964—Subsec. (a). Pub. L. 88-422 increased the pay of all officers, warrant officers and enlisted personnel with over 2 years of service by 2.5 percent, and the pay of commissioned and warrant officers with under 2 years of service by 8.5 percent.

1963—Subsec. (a). Pub. L. 88-132 designated existing provisions as subsec. (a), substituted new basic pay tables and increased from $1,875 to $1,970 the basic pay referred to in footnote 1 of the Commissioned officers' table and substituted "cumulative years of service" for "years of service" therein.

Subsec. (b). Pub. L. 88-132 added subsec. (b).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-419 effective Sept. 19, 1974, see section 9 of Pub. L. 93-419, set out as an Effective Date note under section 1009 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-129 effective Oct. 1, 1971, see section 209 of Pub. L. 92-129, set out as an Effective Date note under section 302a of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 7 of Pub. L. 90-207 provided that: "This Act [enacting sections 311 and 411a of this title, amending sections 203, 403, and 407 of this title, sections 1401 to 1402, 1436, 3991, 6326, 6330, and 8991 of Title 10, Armed Forces, and section 2203 of Appendix to Title 50, War and National Defense, and enacting provisions set out as notes under this section and sections 1401 and 1401a of Title 10] becomes effective as of October 1, 1967. However, a member, except as provided in section 6 of this Act [set out as a note under section 1401 of Title 10], is not entitled to any increases in his pay and allowances under section 1 [enacting Defense, section 311 of this title and amending sections 203, 403, and 407 of this title] or section 4 [amending section 2203 of Appendix to Title 50] for any period before the date of enactment of this Act [Dec. 16, 1967] unless he is on active duty on the date of enactment of this Act. In addition, a member of the National Guard or a member of a Reserve Component of a uniformed service who is in a drill pay status on the effective date of this Act [Oct. 1, 1967] is entitled to have any compensation to which he has become entitled under section 206 of title 37, United States Code, after September 30, 1967, computed under the rates of basic pay prescribed by section 1(1) of this Act [amending this section]."

EFFECTIVE DATE OF 1966 AMENDMENT

Section 304 of Pub. L. 89-501 provided that: "This title [amending subsec. (a) of this section and enacting provisions set out as notes under this section and section 1401 of Title 10, Armed Forces] becomes effective July 1, 1966, or the first day of the month in which increases in the rates of compensation under the General Schedule of pay provided in section 603(b) of the Classification Act of 1949, as amended (5 U.S.C. 1113(b)) [see now section 5332(a) of Title 5, Government Organization and Employees], become effective pursuant to the Federal Employees Salary Act of 1966 [Pub. L. 89-504, July 18, 1966, 80 Stat. 288] whichever is later."

EFFECTIVE DATE OF 1965 AMENDMENT

Section 10 of Pub. L. 89-132 provided that: "This Act [enacting section 1008 of this title and section 1040 of Title 10, Armed Forces, amending sections 203, 308 and 310 of this title and sections 1401 and 1401a of Title 10, and enacting provisions set out as notes under section 1401 of Title 10] becomes effective on the first day of the first calendar month beginning after the date of enactment of this Act [Aug. 21, 1965]."

EFFECTIVE DATE OF 1964 AMENDMENT

Section 4 of Pub. L. 88-422 provided that: "This Act [amending this section, and enacting provisions set out as notes under this section] becomes effective on the first day of the first calendar month beginning after the date of enactment of this Act [Aug. 12, 1964]."

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

PAY CONTINUATION PROVISIONS

Section 210 of Pub. L. 92-129 provided that: "The enactment of this title [enacting sections 302a, 308a, and 428 of this title and amending sections 203 and 403(a) of this title, and sections 2203, 2204, and 2207 of Title 50 Appendix, War and National Defense] shall not reduce the pay to which any member of the uniformed services was entitled on June 30, 1971."

Section 302 of Pub. L. 89-501 provided that:

"Notwithstanding any other provision of law, a member of an armed force who was entitled to pay and allowances under any of the following provisions of law on the day before the effective date of this title [see Effective Date of 1966 Amendment note above] shall continue to receive the pay and allowances to which he was entitled on that day plus an increase of 3.2 per centum in the total of his pay and allowances:

"(1) The Act of March 23, 1946, chapter 112 (60 Stat. 59).

"(2) The Act of June 26, 1948, chapter 677 (62 Stat. 1052).

"(3) The Act of September 18, 1950, chapter 952 (64 Stat. A224).

After the effective date of this title [see Effective Date of 1966 Amendment note above], no increase in the basic pay or any of the allowances of members of the uniformed services on active duty shall increase the basic pay or any of the allowances of a member covered by the preceding provisions of this section."

Section 8 of Pub. L. 89-132 provided that:

"The enactment of this Act [see effective date of 1965 amendment note above] does not reduce—

"(1) the rate of dependency and indemnity compensation under section 411 of title 38, United States Code, that any person was receiving on the day before the effective date of this Act [Sept. 1, 1965] or which thereafter becomes payable for that day by reason of a subsequent determination; or

"(2) the basic pay or the retired pay or retainer pay to which a member or former member of a uniformed service was entitled to on the day before the effective date of this Act [Sept. 1, 1965]."

Section 2 of Pub. L. 88-422 provided that: "Notwithstanding any other provision of law, a member of an armed force who was entitled to pay and allowances under any of the following provisions of law on the day before the effective date of this Act [Sept. 1, 1964] shall continue to receive the pay and allowances to which he was entitled on that day:

"(1) The Act of March 23, 1946, chapter 112 (60 Stat. 59).

"(2) The Act of June 26, 1948, chapter 677 (62 Stat. 1052).

"(3) The Act of September 18, 1950, chapter 952 (64 Stat. A224)."

Section 3 of Pub. L. 88-422 provided that:

"The enactment of this Act [amending this section, and enacting provisions set out as notes under this section] does not reduce—

"(1) the rate of dependency and indemnity compensation under section 411 of title 38, United States Code, that any person was receiving on the day before the effective date of this Act [Sept. 1, 1964] or which thereafter becomes payable for that day by reason of a subsequent determination; or

"(2) the basic pay or the retired pay or retainer pay to which a member or former member of a uniformed service was entitled on the day before the effective date of this Act."

Section 13(b) of Pub. L. 88-132 provided that: "The enactment of this Act [see Short Title of 1963 Amendment note set out under section 101 of this title] does not reduce the basic pay or the retired pay or retainer pay to which a member or former member of a uniformed service was entitled on the day before the effective date of this Act [Oct. 1, 1963]."

MASTER CHIEF PETTY OFFICER OF THE COAST GUARD; PAY RECOVERY

Section 5 of Pub. L. 92-455 provided that: "An enlisted member of the Coast Guard who has served as the

master chief petty officer of the Coast Guard before enactment of this Act [Oct. 2, 1972] is entitled to recover the differences between the basic pay (including proficiency pay) received while so serving and the amount he would have received if his basic pay had been the same as the basic pay of the senior enlisted advisers of the other Armed Forces from the time of his original appointment to serve as the master chief petty officer of the Coast Guard."

REPORT ON EFFECTIVENESS OF 1971 PAY INCREASES IN INCREASING VOLUNTEERS

Section 211 of Pub. L. 92-129 required the Secretary of Defense to report to the Chairman of the Armed Services Committees of the Senate and of the House of Representatives not later than June 30, 1972, on the effectiveness of the provisions of title II of Pub. L. 92-129, authorizing pay increases for the uniformed services, in increasing the number of volunteers enlisting for active duty in the Armed Forces of the United States.

ADJUSTMENT OF PAY RATES

For adjustment of pay rates effective Oct. 1, 1976, see Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under section 1009 of this title.

PERIODIC PAY ADJUSTMENTS IN MONTHLY BASIC PAY

Section 8 of Pub. L. 90-207, which provided for adjustment of regular compensation whenever the General Schedule of compensation for federal classified employees was adjusted upwards, was repealed by section 8 of Pub. L. 93-419.

EXECUTIVE ORDER NO. 11414

Ex. Ord. No. 11414, June 11, 1968, 33 F.R. 8645, formerly set out as a note under this section, which provided for the adjustment of pay rates effective July 1, 1968, was superseded by Ex. Ord. No. 11812, Oct. 7, 1974, 39 F.R. 36307. For present provisions, see Ex. Ord. No. 11941, set out as a note under section 1009 of this title.

EXECUTIVE ORDER NO. 11475

Ex. Ord. No. 11475, June 16, 1969, 34 F.R. 9609, formerly set out as a note under this section which provided for the adjustment of pay rates effective July 1, 1969, was superseded by Ex. Ord. No. 11812, Oct. 7, 1974, 39 F.R. 36307. For present provisions, see Ex. Ord. No. 11941, set out as a note under section 1009 of this title.

EXECUTIVE ORDER NO. 11525

Ex. Ord. No. 11525, Apr. 15, 1970, 35 F.R. 6251, formerly set out as a note under this section which provided for the adjustment of pay rates effective Jan. 1, 1970, was superseded by Ex. Ord. No. 11812, Oct. 7, 1974, 39 F.R. 36307. For present provisions, see Ex. Ord. No. 11941, set out as a note under section 1009 of this title.

EXECUTIVE ORDER NO. 11577

Ex. Ord. No. 11577, Jan. 8, 1971, 36 F.R. 349, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Jan. 1, 1971, was superseded by Ex. Ord. No. 11812, Oct. 7, 1974, 39 F.R. 36307. For present provisions, see Ex. Ord. No. 11941, set out as a note under section 1009 of this title.

EXECUTIVE ORDER NO. 11638

Ex. Ord. No. 11638, Dec. 22, 1971, 36 F.R. 24913, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Jan. 1, 1972, was superseded by Ex. Ord. No. 11812, Oct. 7, 1974, 39 F.R. 36307. For present provisions, see Ex. Ord. No. 11941, set out as a note under section 1009 of this title.

EXECUTIVE ORDER NO. 11692

Ex. Ord. No. 11692, Dec. 15, 1972, 37 F.R. 27609, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Jan. 1, 1973, was superseded by Ex. Ord. No. 11812, Oct. 7, 1974, 39 F.R. 36307. For present provisions, see Ex. Ord. No. 11941, set out as a note under section 1009 of this title.

EXECUTIVE ORDER NO. 11740

Ex. Ord. No. 11740, Oct. 3, 1973, 38 F.R. 27585, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Oct. 1, 1973, was superseded by Ex. Ord. No. 11812, Oct. 7, 1974, 39 F.R. 36307. For present provisions, see Ex. Ord. No. 11941, set out as a note under section 1009 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 1009 of this title; title 10 section 1401a.

§ 204. Entitlement

(a) Except for members covered by section 202(i) of this title, the following persons are entitled to the basic pay of the pay grade to which assigned or distributed, in accordance with their years of service computed under section 205 of this title—

(1) a member of a uniformed service who is on active duty; and

(2) a member of a uniformed service, or a member of the National Guard who is not a Reserve of the Army or the Air Force, who is participating in full-time training, training duty with pay, or other full-time duty, provided by law, including participation in exercises or the performance of duty under section 3033, 3496, 3541, 8033, 8496, or 8541 of title 10, or section 503, 504, 505, or 506 of title 32.

(b) For the purposes of subsection (a) of this section, under regulations prescribed by the President, the time necessary for a member of a uniformed service who is called or ordered to active duty for a period of more than 30 days to travel from his home to his first duty station and from his last duty station to his home, by the mode of transportation authorized in his call or orders, is considered active duty.

(c) A member of the National Guard who is called into Federal service for a period of 30 days or less is entitled to basic pay from the date when he appears at the place of company rendezvous. However, this subsection does not authorize any expenditure before arriving at the place of rendezvous that is not authorized by law to be paid after arrival at that place.

(d) Full-time training, training duty with pay, or other full-time duty performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in his status as a member of the National Guard, is active duty for the purposes of this section.

(e) A payment accruing under any law to a member of a uniformed service incident to his release from active duty or for his return home incident to that release may be paid to him before his departure from his last duty station, whether or not he actually performs the travel involved. If a member receives a payment under this subsection but dies before that payment

would have been made but for this subsection, no part of that payment may be recovered by the United States.

(f) A cadet of the United States Military Academy or the United States Air Force Academy, or a midshipman of the United States Naval Academy, who, upon graduation from one of those academies, is appointed as a second lieutenant of the Army or the Air Force is entitled to the basic pay of pay grade O–1 beginning upon the date of his graduation.

(g) A member of the Army or the Air Force (other than of the Regular Army or the Regular Air Force) is entitled to the pay and allowances provided by law or regulation for a member of the Regular Army or the Regular Air Force, as the case may be, of corresponding grade and length of service, whenever—

(1) he is called or ordered to active duty (other than for training under section 270(b) of title 10) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

(2) he is called or ordered to active duty, or to perform inactive-duty training, for any period of time, and is disabled in line of duty from injury while so employed.

(h) A member of the National Guard is entitled to the pay and allowances provided by law or regulation for a member of the Regular Army or the Regular Air Force, as the case may be, of corresponding grade and length of service, whenever he is called or ordered to perform training under section 502, 503, 504, or 505 of title 32—

(1) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

(2) for any period of time, and is disabled in line of duty from injury while so employed.

(i) A member of the Naval Reserve, Fleet Reserve, Marine Corps Reserve, Fleet Marine Corps Reserve, or Coast Guard Reserve is entitled to the pay and allowances provided by law or regulation for a member of the Regular Navy, Regular Marine Corps, or Regular Coast Guard, as the case may be, of corresponding grade and length of service, under the same conditions as those described in clauses (1) and (2) of subsection (g) of this section.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 457.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
204(a)	37:232(d) (1st sentence, less provisos).	Oct. 12, 1949, ch. 681, § 201(d), 63 Stat. 807; redesignated as "(d)" by Mar. 31, 1955, ch. 20, § 2(2), 69 Stat. 19; Aug. 10, 1956, ch. 1041, § 20(a), 70A Stat. 627; May 20, 1958, Pub. L. 85–422, § 1(4), 72 Stat. 124.
204(b)	37:232(d) (1st proviso of 1st sentence).	
204(c)	37:232(d) (2d proviso of 1st sentence).	
204(d)	37:232(d) (last proviso of 1st sentence).	
204(e)	37:232(d) (less 1st sentence).	
204(f)	37:308a.	Dec. 20, 1886, ch. 2, 24 Stat. 351; June 2, 1950, ch. 217, § 2, 64 Stat. 195.

HISTORICAL AND REVISION NOTES—Continued

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
204(g)	10:3687 (as applicable to pay and allowances).	[None.]
	10:8687 (as applicable to pay and allowances).	[None.]
204(h)	32:318 (as applicable to pay and allowances).	[None.]
204(i)	10:6148(a) (as applicable to pay and allowances).	[None.]
	10:6148(b) (as applicable to pay and allowances).	[None.]

[The citations to section 232(d) of existing title 37, above, are to the language of subsection (d) set forth in the codification note under section 232, rather than that erroneously set forth in the text of the section.]

In subsection (a), the last 27 words are substituted for the words "or performance of the duties provided for by sections 5, 81, 94, 97 and 99 of the National Defense Act, as amended," to reflect the current citations. So much of the introductory clause as follows the exception is substituted for the 36 words preceding 1st proviso of 1st sentence of section 232(d) of existing title 37. The words "on the active list" are omitted as covered by the words "active duty" as defined in section 101(18) of this revised title. The words "(provided for or authorized in the National Defense Act, as amended, or in the Naval Reserve Act of 1938, as amended)" are omitted as covered by the words "provided by law".

In subsection (b), the words "For the purposes of subsection (a)" are inserted for clarity. The words "active duty for a period of more than 30 days" are substituted for the words "extended active duty in excess of thirty days". The words "call or" are inserted to conform to the words "called or".

In subsection (c), the words "and allowances" are omitted, since, under chapter 7 of this revised title, entitlement to allowances depends upon entitlement to basic pay. The last sentence is substituted for the last 38 words of the 2d proviso of the 1st sentence of section 232(d) of existing title 37.

In subsection (d), the words "for the purposes of this section" are substituted for the words "and which entitles them to receive basic pay . . . in the service of the United States". The words "pursuant to this section" are omitted as surplusage.

In subsection (e), the words "or active duty for training" are omitted as covered by the words "active duty" as defined in section 101(18) of this revised title.

In subsection (f), the words "is appointed" are substituted for the words "has been or may be commissioned". The words "under the laws appointing such graduates to the Army" and the last 16 words of section 308a of existing title 37 are omitted as surplusage. The words "to the date of his acceptance of and qualification under his commission" are omitted, since the member concerned would continue to be entitled to basic pay after that acceptance and qualification. The words "or the United States Naval Academy" are inserted to reflect section 541 of title 10, under which graduates of that Academy may be appointed in the Army or the Air Force.

In subsection (i), the inclusion of the Coast Guard Reserve is based on the authority contained in section 755(c) of title 14.

CROSS REFERENCES

No increase in allowances while dependent entitled to basic pay, see section 420 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 206, 301, 301a, 420, 707 of this title; title 5 section 4102.

§ 205. Computation: service creditable

(a) Subject to subsections (b)–(d) of this section, for the purpose of computing the basic pay of a member of a uniformed service, his years of service are computed by adding—

(1) all periods of active service as an officer, Army field clerk, flight officer, aviation midshipman, or enlisted member of a uniformed service;

(2) all periods during which he was enlisted or held an appointment as an officer, Army field clerk, or flight officer of—

(A) a regular component of a uniformed service;

(B) the Regular Army Reserve;

(C) the Organized Militia before July 1, 1916;

(D) the National Guard;

(E) the National Guard Reserve;

(F) a reserve component of a uniformed service;

(G) the Naval Militia;

(H) the National Naval Volunteers;

(I) the Naval Reserve Force;

(J) the Army without specification of component;

(K) the Air Force without specification of component;

(L) the Marine Corps Reserve Force;

(M) the Philippine Scouts; or

(N) the Philippine Constabulary;

(3) for a commissioned officer in service on June 30, 1922, all service that was then counted in computing longevity pay and all service as a contract surgeon serving full time;

(4) all periods during which he held an appointment as a nurse, reserve nurse, or commissioned officer in the Army Nurse Corps as it existed at any time before April 16, 1947, the Navy Nurse Corps as it existed at any time before April 16, 1947, or the Public Health Service, or a reserve component of any of them;

(5) all periods during which he was a deck officer or junior engineer in the Environmental Science Services Administration;

(6) all periods that, under law in effect on January 10, 1962, were authorized to be credited in computing basic pay;

(7) for an officer of the Medical Corps or Dental Corps of the Army or Navy, an officer of the Air Force designated as a medical or dental officer, or an officer of the Public Health Service commissioned as a medical or dental officer—four years;

(8) for a medical officer named in clause (7) who has completed one year of medical internship or the equivalent thereof—one year in addition to the four years prescribed by clause (7); and

(9) all periods while—

(A) on a temporary disability retired list, honorary retired list, or a retired list of a uniformed service;

(B) entitled to retired pay, retirement pay, or retainer pay, from a uniformed service or the Veterans' Administration, as a member of the Fleet Reserve or the Fleet Marine Corps Reserve; or

(C) a member of the Honorary Reserve of the Officers' Reserve Corps or the Organized Reserve Corps.

Except for any period of active service described in clause (1) of this subsection and except as provided by section 1402(b)–(d) of title 10, a period of service described in clauses (2)–(9) of this subsection that is performed while on a retired list, in a retired status, or in the Fleet Reserve of Fleet Marine Corps Reserve, may not be included to increase retired pay, retirement pay, or retainer pay. For the purpose of clause (5) of this subsection, periods during which a member was a deck officer or junior engineer in the Environmental Science Services Administration includes periods during which a member was a deck officer or junior engineer in the Coast and Geodetic Survey.

(b) A period of time may not be counted more than once under subsection (a) of this section. In addition, the amount of service authorized to be credited under clause (7) or (8) of subsection (a) of this section to an officer shall be reduced by the amount of any service otherwise creditable under that subsection that covers any part of his professional education or internship.

(c) Notwithstanding any other law, service credited under clause (7) or (8) of subsection (a) of this section may not—

(1) be included in establishing eligibility for voluntary or involuntary retirement or separation from a uniformed service;

(2) increase the retired or retirement pay of a person who became entitled to that pay before May 1, 1956; or

(3) increase the retired pay of a person who is entitled to that pay under chapter 67 of title 10, after April 30, 1956, and who does not perform active duty after May 1, 1956.

(d) The periods of service authorized to be counted under subsection (a) of this section shall, under regulations prescribed by the Secretary concerned, include service performed by a member of a uniformed service before he became 18 years of age.

(e) Notwithstanding subsection (a), a commissioned officer may not count in computing his basic pay any period of service after October 13, 1964, that he performed concurrently as a member of a uniformed service and as a member of the Senior Reserve Officers' Training Corps.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 458; Pub. L. 88-647, title II, § 202(1), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-718, § 49(a)(1), (b), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 90-623, § 3(3), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 93-545, § 2, Dec. 26, 1974, 88 Stat. 1741.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
205(a)	37:233(a) (less words after 2d semicolon of clause (7)). 37:233(b).	Oct. 12, 1949, ch. 681, § 202 (less proviso of (d)), 63 Stat. 807; Apr. 30, 1956, ch. 223, § 2, 70 Stat. 121.
205(b)	37:233(a)(7) (words between 2d and 3d semicolons). 37:233(d) (less proviso).	
205(c)	37:233(a)(7) (words after 3d semicolon).	
205(d)	37:233(c).	

In subsection (a), the introductory clause is substituted for section 233(a) (introductory clause) of existing title 37. In clauses (1) and (2), the word "officer" is substituted for the words "commissioned officer, commissioned warrant officer, warrant officer" to conform to the definition of "officer" in section 101(11) of this revised title. In clause (1), the words "Regular or Reserve component" are omitted, since, under the definition of "reserve component" in section 102(k) of the source statute, those words are defined to include members without component status. Together, these categories compose the entire structure of any uniformed service. In clause (2)(F), the words "a reserve component of a uniformed service" are substituted for the words "the National Guard of the United States, or in the Organized Reserve Corps, or in the Officers' Reserve Corps, or in the Enlisted Reserve Corps, or in the Medical Reserve Corps, or in the Medical Reserve Corps of the Navy, or in the Dental Reserve Corps of the Navy . . . or in the Naval Reserve . . . or in the Air National Guard of the United States, or in the Air Force Reserve, or in the officers' section of the Air Force Reserve, or in the enlisted section of the Air Force Reserve, or in the Air Corps Reserve . . . or in the Marine Corpos Reserve, or in the Coast Guard Reserve, or in the Reserve Corps of the Public Health Service," since all of the named organizations were or are reserve components. In clause (4), the words "as it existed at any time before April 16, 1947" are inserted for clarity, since the reference is intended to apply to the corps established by law before April 16, 1947. Service in the Army Nurse Corps or Navy Nurse Corps now existing would be included under clause (1) or (2), since there is now no legal distinction between the service of nurses and that of other members of the Army and Navy. In clause (6), the date "January 1, 1961," is substituted for the words "the effective date of this section," to reflect laws enacted after that effective date which authorized certain service to be credited for pay purposes. See, for example, Public Law 86-142. Clause (9) is substituted for section 233(b) (less proviso) of existing title 37. The last sentence is substituted for section 233(b) (proviso) of existing title 37.

In subsection (b), the first 33 words of section 233(d) of existing title 37 are omitted as covered by the words "are computed by adding" in subsection (a). The words "for any reason," in section 233(d) of existing title 37, are omitted as surplusage.

In subsection (c)(3), the words "chapter 67 of title 10" are substituted for the words "title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948," since that title was repealed by section 53 of the Act of August 10, 1956, ch. 1041 (70A Stat. 641), and is now codified as chapter 67 of title 10 by section 1 of that Act.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-545 added "aviation midshipman," following "flight officer,".

1968—Subsec. (e). Pub. L. 90-623 substituted "October 13, 1964," for "the enactment of this subsection".

1966—Subsec. (a). Pub. L. 89-718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey" in clause (5) and added provision that, for the purpose of clause (5), periods during which a member was a deck officer or junior engineer in the Environmental Science Services Administration includes periods during which a member was a deck officer or junior engineer in the Coast and Geodetic Survey.

1964—Subsec. (e). Pub. L. 88-647 added subsec. (e).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of the Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

In order to implement the provisions of Reorganization Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, the following organizational names appearing in chapter IX of subtitle B of Title 15, Code of Federal Regulations, which covers the administration of the National Oceanic and Atmospheric Administration, were changed by order of the Acting Associate Administrator, 35 F.R. 19249, Dec. 19, 1970, as follows: Environmental Science Services Administration to National Oceanic and Atmospheric Administration (ESSA to NOAA); Coast and Geodetic Survey to National Ocean Survey; and Weather Bureau to National Weather Service.

CROSS REFERENCES

Contract surgeons, allowances, see section 421 of this title.

Years of service, compution of, see section 1405 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 203, 308, 421 of this title; title 10 sections 1405, 2126; title 42 section 212.

§ 206. Reserves; members of National Guard: inactive-duty training

(a) Under regulations prescribed by the Secretary concerned, and to the extent provided for by appropriations, a member of the National Guard or a member of a reserve component of a uniformed service who is not entitled to basic pay under section 204 of this title, is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that

performed on a Sunday or holiday, or for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe.

(b) The regulations prescribed under subsection (a) of this section for each uniformed service, the National Guard, and each of the classes of organization of the reserve components within each uniformed service, may be different. The Secretary concerned shall, for the National Guard and each of the classes of organization within each uniformed service, prescribe—

(1) minimum standards that must be met before an assembly for drill or other equivalent period of training, instruction, duty, or appropriate duties may be credited for pay purposes, and those standards may require the presence for duty of officers and enlisted members in numbers equal to or more than a minimum number or percentage of the unit strength for a specified period of time with participation in a prescribed kind of training;

(2) the maximum number of assemblies or periods of other equivalent training, instruction, duty, or appropriate duties, that may be counted for pay purposes in each fiscal year or in lesser periods of time; and

(3) the minimum number of assemblies or periods of other equivalent training, instruction, duty, or appropriate duties that must be completed in stated periods of time before the members of units or organizations can qualify for pay.

(c) A person enlisted in the inactive National Guard is not entitled to pay under this section.

(d) This section does not authorize compensation for work or study performed by a member of a reserve component in connection with correspondence courses of an armed force.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 460.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
206(a)	37:301(a) (less 45 words before proviso and proviso). 37:301(e) (as applicable to basic pay).	Oct. 12, 1949, ch. 681, § 501(a) (less 45 words before proviso), (b) (less 1st sentence), (e) (as applicable to basic pay), 63 Stat. 825, 827; Aug. 10, 1956, ch. 1041, § 20(e), (f), 70A Stat. 629; June 30, 1960, Pub. L. 86-559, § 8, 74 Stat. 282.
206(b)	37:301(a) (proviso).	
206(c)	32:303(c).	[None.]
206(d)	37:301(b) (less 1st sentence).	

In subsection (a), the words "National Guard" are substituted for the words "National Guard, Air National Guard", in section 301(a) of existing title 37, to conform to the definition of "National Guard" in section 101(6) of this revised title. The words "member of a reserve component of a uniformed service" are substituted for the words "National Guard of the United States, Air National Guard of the United States, Organized Reserve Corps, Naval Reserve, Air Force Reserve, Marine Corps Reserve, Coast Guard Reserve, and the Reserve Corps of the Public Health Service," since all of those organizations, or their successors, are the reserve components of the uniformed services. The words "who is not entitled to basic pay under section 204 of this title" are substituted for section 301(e) as (applicable to basic pay) of existing title 37. The words "of a corresponding grade" are inserted for clarity.

In subsection (b), the words "National Guard or reserve components" are substituted for the listing of organizations for the reasons set forth above. Reference to "classes of organization," so far as they relate to the National Guard, are omitted, since there are no classes of organization of the National Guard.

CROSS REFERENCES

Additional pay for performance of administrative duty, see section 309 of this title.

Inactive-duty training defined, see section 101 of this title and section 101 of Title 10, Armed Forces.

Incentive pay for hazardous duty, see section 301 of this title.

Rations in kind when instruction or duty periods total at least 8 hours in calendar day, see section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 301, 301a, 309, 402, 707 of this title; title 10 section 101; title 31 section 698a; title 32 sections 321, 334, 715; title 38 sections 101, 2024.

§ 207. Band leaders

(a) The leader of the Army Band is entitled to the basic pay of a captain in the Army.

(b) The director of music at the United States Military Academy is entitled to the basic pay of a commissioned officer whose grade corresponds to the rank prescribed for the director by the Secretary of the Army.

(c) The leader of the United States Navy Band is entitled to the basic pay of a lieutenant in the Navy.

(d) A member of the Marine Corps who is appointed as director or assistant director of the United States Marine Band under section 6222 of title 10 is entitled, while serving thereunder, only to the basic pay of an officer in the grade in which he is serving. However, his basic pay may not be less that to which he was entitled at the time of his appointment under that section.

(e) The leader of the Naval Academy Band is entitled to the basic pay of the grade the Secretary of the Navy prescribes. The second leader is entitled to the basic pay of a warrant officer, W-1.

(f) The director of the Coast Guard Band is entitled to the basic pay of an officer in the grade in which he is serving. However, his basic pay may not be less than that to which he was entitled at the time of his appointment as director.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 460; Pub. L. 89-189, § 2, Sept. 17, 1965, 79 Stat. 820.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
207(a)	10:3536(b) (as applicable to basic pay).	[None.]
207(b)	10:4338(a) (as applicable to basic pay).	[None.]
207(c)	10:6221(b) (as applicable to basic pay).	[None.]

HISTORICAL AND REVISION NOTES—Continued

Revised section	Source (U.S. Code)	Source (Statutes at Large)
207(d).....	10:6222(e) (as applicable to basic pay).	[None.]
207(e).....	10:6969(b) (less last sentence, as applicable to basic pay).	[None.]

In subsection (a), the last 22 words of section 3536(b) of title 10 are omitted as covered by section 205 of this revised title.

In subsection (b), the last sentence of section 4338(a) of title 10 is omitted as covered by section 205 of this revised title.

In subsection (c), the last 22 words of section 6221(b) of title 10 are omitted as covered by section 205 of this revised title.

In subsection (e), the 2d sentence of section 6969(b) of title 10 is omitted as covered by section 205 of this revised title.

AMENDMENTS

1965—Subsec. (f). Pub. L. 89-189 added subsec. (f).

CROSS REFERENCES

Leader of Naval Academy Band, allowances, see section 424 of this title.

[§ 208. Repealed. Pub. L. 91-482, § 1(b), Oct. 21, 1970, 84 Stat. 1082]

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 461, provided that an officer furloughed under section 6406 of Title 10 was entitled to pay at the rate of one-half of the basic pay to which he was entitled at the time of being furloughed.

§ 209. Members of Senior Reserve Officers' Training Corps

(a) Except when on active duty, a member of the Senior Reserve Officers' Training Corps who is selected for advanced training under section 2104 of title 10 is entitled to a subsistence allowance of $100 a month beginning on the day he starts advanced training and ending upon the completion of his instruction under that section, but in no event shall any member receive such pay for more than 20 months. Subsistence allowance under this section may not be considered financial assistance requiring additional service within the meaning of the third sentence of section 456(d)(1) of title 50, appendix.

(b) Except when on active duty, a cadet or midshipman appointed under section 2107 of title 10 is entitled to a monthly subsistence allowance in the amount provided in subsection (a) of this section. A member enrolled in the first two years of a four-year program is entitled to receive subsistence for a maximum of twenty months. A member enrolled in the advanced course is entitled to subsistence as prescribed for a member enrolled under section 2104 of title 10 as prescribed in subsection (a) of this section.

(c) A member of the Senior Reserve Officers' Training Corps is entitled, while he is attending field training or practice cruises under section 2109 of title 10, to pay at the rate prescribed for cadets and midshipmen at the United States Military, Naval, and Air Force Academies under section 201(c) of this title. An applicant for membership who is attending field training or practice cruises to satisfy the requirement of section 2104(b)(6)(B) of title 10 for admission to advanced training is entitled, while so attending, to pay at the rate prescribed in section 203 of this title for enlisted members of the uniformed services in pay grade E-1 (under 4 months).

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 461; Pub. L. 88-647, title II, § 202(2), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-51, § 3, June 28, 1965, 79 Stat. 173; Pub. L. 89-718, § 51, Nov. 2, 1966, 80 Stat. 1121; Pub. L. 92-171, § 1, Nov. 24, 1971, 85 Stat. 490.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
209(a).....	10:6904(b).	[None.]
209(b).....	10:6905(b).	[None.]
209(c).....	10:6906(c) (1st sentence, as applicable to pay).	[None.]

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-171, § 1(1), substituted "a subsistence allowance of $100 a month" for "subsistence allowance at the rate of not less than $40 per month or more than $50 per month".

Subsec. (b). Pub. L. 92-171, § 1(2), substituted "a monthly subsistence allowance in the amount provided in subsection (a) of this section. A member enrolled in the first two years of a four-year program is entitled to receive subsistence for a maximum of twenty months. A member enrolled in the advanced course is entitled to subsistence as prescribed for a member enrolled under section 2104 of title 10 as prescribed in subsection (a) of this section." for "subsistence allowance at the rate of $50 a month beginning on the day that he starts his first term of college work under that section and ending upon the completion of his instruction under that section, but not for more than four years.".

1966—Subsec. (a). Pub. L. 89-718, § 51(1), struck out ", United States Code," following "section 2104 of title 10", and substituted "20" for "twenty" and "section 456(d)(1) of title 50, appendix" for "section 6(d)(1) of the Universal Military Training and Service Act, as amended (50 U.S.C. App. 456(d)(1))".

Subsec. (c). Pub. L. 89-718, § 51(2), struck out", United States Code," following "section 2104(b)(6)(B) of title 10".

1965—Subsec. (a). Pub. L. 89-51 substituted "subsistence allowance" and "Subsistence allowance" for "retainer pay" and "Retainer pay", respectively.

Subsec. (b). Pub. L. 89-51 substituted "subsistence allowance" for "retainer pay".

1964—Pub. L. 88-647 substituted provisions which grant a trainee under section 2104 of title 10, retainer pay of from $40 to $50 monthly for his instruction period under said section 2104, limited to not more than 20 months, provide that such assistance does not fall within section 456(d)(1) of title 50 App., grant cadets or midshipmen under section 2107 of title 10 retainer pay, limited to not more than 4 years, authorize pay for trainees attending field training or practice cruises under section 2109 of title 10 at the rate prescribed for cadets and midshipmen at the military academies under section 201(c) of this title, and pay for applicants attending field training or practice cruises to satisfy section 2104(b)(6)(B) of title 10, as in section 203 of this title for enlisted men grade E-1, for provisions entitling midshipmen appointed under section 6904 of title 10 to $50 a month for his instruction period up to 4 academic years, seamen recruits under section 6905 of title 10 to $50 monthly for his instruc-

tion period under said section 6905, and midshipmen in flight training or on flight duty under section 6906 of title 10 to pay as for midshipmen at the Naval Academy plus an amount equal to 50 percent of his pay for flight duty.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 2 of Pub. L. 92-171 provided that: "The amendments made by this Act [amending subsecs. (a) and (b) of this section] shall become effective on July 1, 1971."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsecs. (b) and (c) by Pub. L. 89-51 effective Oct. 13, 1964, see section 4 of Pub. L. 89-51, set out as an Effective Date of 1965 Amendment note under section 2109 of Title 10, Armed Forces.

SUBSISTENCE ALLOWANCES FOR MEMBERS OF THE MARINE CORPS OFFICER CANDIDATE PROGRAMS

Pub. L. 92-172, Nov. 24, 1971, 85 Stat. 491, as amended by Pub. L. 94-361, title VI, § 604, July 14, 1976, 90 Stat. 929, provided that until June 30, 1977, except when on active duty, a member enrolled in the Marine Corps officer candidate program which requires a baccalaureate degree as a prerequisite for commission as a regular or reserve officer, and who was not enrolled in a program or academy established under chapters 103, 403, 603, or 903 of Title 10, Armed Forces, was to be paid a subsistence allowance at the same rate prescribed in subsec. (a) of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1478.

CHAPTER 5—SPECIAL AND INCENTIVE PAYS

Sec.
301. Incentive pay: hazardous duty.
301a. Incentive pay: aviation career.
302. Special pay: physicians.
302a. Special pay: optometrists.
302b. Special pay: dentists.
303. Special pay: veterinarians.
304. Special pay: diving duty.
305. Special pay: while on sea duty or duty at certain places.
306. Special pay: officers holding positions of unusual responsibility and of critical nature.
307. Special pay: proficiency pay for enlisted members.
308. Special pay: reenlistment bonus.
308a. Special pay: enlistment bonus.
309. Reserves; members of National Guard: additional pay for performance of administrative duty.
310. Special pay: duty subject to hostile fire.
311. Special pay: continuation pay for physicians and dentists who extend their service on active duty.
312. Special pay: nuclear-qualified officers extending period of active service.
312a. Special pay: nuclear-trained and qualified enlisted members.
312b. Special pay: nuclear career accession bonus.
312c. Special pay: nuclear career annual incentive bonus.
313. Special pay: medical officers who execute active duty agreements.

AMENDMENTS

1976—Pub. L. 94-356, § 3, July 12, 1976, 90 Stat. 901, added items 312b and 312c.

1974—Pub. L. 93-294, § 2(3), May 31, 1974, 88 Stat. 177, added item 301a.

Pub. L. 93-274, § 1(1), (2), (4), May 6, 1974, 88 Stat. 94, 95, substituted "physicians" for "physicians and dentists" in item 302, and added items 302b and 313.

1972—Pub. L. 92-581, § 1(1), (4), Oct. 27, 1972, 86 Stat. 1277, 1278, struck out "submarine" in item 312, and added item 312a.

1971—Pub. L. 92-129, title II, §§ 202(b), 203(b), Sept. 28, 1971, 85 Stat. 358, added items 302a and 308a.

1969—Pub. L. 91-20, § 1(2), June 3, 1969, 83 Stat. 13, added item 312.

1967—Pub. L. 90-207, § 1(2)(B), Dec. 16, 1967, 81 Stat. 651, added item 311.

1963—Pub. L. 88-132, §§ 9(a)(2), 12(c), Oct. 2, 1963, 77 Stat. 216, 218, substituted "while on sea duty or duty at certain places" for "sea and foreign duty" in item 305, and added item 310.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1003 of this title; title 42 section 254d.

§ 301. Incentive pay: hazardous duty

(a) Subject to regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled to incentive pay, in the amount set forth in subsection (b) or (c) of this section, for the performance of hazardous duty required by orders. For the purposes of this subsection, "hazardous duty" means duty—

(1) as an enlisted crew member, as determined by the Secretary concerned, involving frequent and regular participation in aerial flight;

(2) as determined by the Secretary concerned, on a submarine (including, in the case of nuclear-powered submarines, periods of training and rehabilitation after assignment thereto), or in the case of personnel qualified in submarines, as a member of a submarine operational command staff whose duties require serving on a submarine during underway operations—

(A) during one calendar month: 48 hours; however, hours served underway in excess of 48 as a member of a submarine operational command staff during any of the immediately preceding five calendar months and not already used to qualify for incentive pay may be applied to satisfy the underway time requirements for the current month;

(B) during any two consecutive calendar months when the requirements of clause (A) above have not been met: 96 hours; or

(C) during any three consecutive calendar months when the requirements of clause (B) above have not been met: 144 hours;

as a prospective crew-member of submarine being constructed, and during periods of instruction to prepare for assignment to a submarine of advanced design or a position of increased responsibility on a submarine;

(3) as an operator or crew member of an operational, self-propelled submersible, including undersea exploration and research vehicles;

(4) involving frequent and regular participation in aerial flight, not as a crew member under clause (1) of this subsection;

(5) involving frequent and regular participation in glider flights;

(6) involving parachute jumping as an essential part of military duty;

(7) involving intimate contact with persons afflicted with leprosy;

(8) involving the demolition of explosives as a primary duty, including training for that duty;

(9) inside a high- or low-pressure chamber;

(10) as a human acceleration or deceleration experimental subject;

(11) as a human test subject in thermal stress experiments; or

(12) involving frequent and regular participation in flight operations on the flight deck of an aircraft carrier.

(b) For the performance of the hazardous duty described in clause (1), (2), or (3) of subsection (a) of this section, a member is entitled to monthly incentive pay as follows:

COMMISSIONED OFFICERS

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
O-10	$165	$165	$165	$165	$165	$165	$165
O-9	165	165	165	165	165	165	165
O-8	155	155	165	165	165	165	165
O-7	150	150	160	160	160	160	160
O-6	200	200	215	215	215	215	215
O-5	190	190	205	205	205	205	205
O-4	170	170	185	185	185	195	210
O-3	145	145	155	165	180	185	190
O-2	115	125	150	150	160	165	170
O-1	100	105	135	135	140	145	155

Pay grade	Years of service computed under section 205						
	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
O-10	$165	$165	$165	$165	$165	$165	$165
O-9	165	165	165	165	165	165	165
O-8	165	165	165	165	165	165	165
O-7	160	160	160	160	160	160	160
O-6	215	215	220	245	245	245	245
O-5	210	225	230	245	245	245	245
O-4	215	220	230	240	240	240	240
O-3	200	205	205	205	205	205	205
O-2	180	185	185	185	185	185	185
O-1	160	170	170	170	170	170	170

WARRANT OFFICERS

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
W-4	$115	$115	$115	$115	$120	$125	$135
W-3	110	115	115	115	120	120	125
W-2	105	110	110	110	115	120	125
W-1	100	105	105	105	110	120	125

Pay grade	Years of service computed under section 205						
	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
W-4	$145	$155	$160	$165	$165	$165	$165
W-3	135	140	140	140	140	140	140
W-2	130	135	135	135	135	135	135
W-1	130	130	130	130	130	130	130

ENLISTED MEMBERS

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9	$105	$105	$105	$105	$105	$105	$105
E-8	105	105	105	105	105	105	105
E-7	80	85	85	85	90	95	100
E-6	70	75	75	80	85	90	95
E-5	60	70	70	80	80	85	90
E-4	55	65	65	70	75	80	80
E-3	55	60	60	60	60	60	60
E-2	50	60	60	60	60	60	60
E-1	50	55	55	55	55	55	55
E-1 (under 4 months).	50						
Aviation cadets	50						

Pay grade	Years of service computed under section 205						
	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
E-9	$105	$105	$105	$105	$105	$105	$105
E-8	105	105	105	105	105	105	105
E-7	105	105	105	105	105	105	105
E-6	95	100	100	100	100	100	100
E-5	95	95	95	95	95	95	95
E-4	80	80	80	80	80	80	80
E-3	60	60	60	60	60	60	60
E-2	60	60	60	60	60	60	60
E-1	55	55	55	55	55	55	55

(c) For the performance of the hazardous duty described in clause (4), (5), (6), (7), (8), (9), (10), (11), or (12) of subsection (a) of this section, an officer is entitled to $110 a month and an enlisted member is entitled to $55 a month.

(d) In time of war, the President may suspend the payment of incentive pay for any hazardous duty described in subsection (a) of this section.

(e) A member is entitled to not more than two payments of incentive pay, authorized by this section, for a period of time during which he qualifies for more than one payment of that pay.

(f) Under regulations prescribed by the President and to the extent provided for by appropriations, when a member of a reserve component of a uniformed service, or of the National Guard, who is entitled to compensation under section 206 of this title, performs, under orders, any duty described in subsection (a)(1)-(12) of this section for members entitled to basic pay, he is entitled to an increase in compensation equal to 1/30 of the monthly incentive pay authorized by subsection (b) or (c) of this section, as the case may be, for the performance of that hazardous duty by a member of a corresponding grade who is entitled to basic pay. He is entitled to the increase for as long as he is qualified for it, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or holiday, or for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title. This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 461; Pub. L. 88-132, §§ 6-8, Oct. 2, 1963, 77 Stat. 215, 216; Pub. L. 89-149, §§ 1-3, Aug. 28, 1965, 79 Stat.

585; Pub. L. 89-278, Oct. 20, 1965, 79 Stat. 1011; Pub. L. 89-718, § 52, Nov. 2, 1966, 80 Stat. 1121; Pub. L. 92-436, title VI, § 605, Sept. 26, 1972, 86 Stat. 740; Pub. L. 93-294, § 2(1), (2), May 31, 1974, 88 Stat. 177.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
301(a).....	37:235(a).	Feb. 18, 1946, ch. 30 (1st proviso under "General Provision"), 60 Stat. 20.
301(b).....	37:235(b).	
301(c).....	37:235(c).	
301(d).....	37:235(d).	Oct. 12, 1949, ch. 681, §§ 204, 501(d), (e) (as applicable to incentive pay), 63 Stat. 809, 826, 827; Mar. 31, 1955, ch. 20, § 2(4)-(7), 69 Stat. 19-21; Aug. 28, 1957, Pub. L. 85-208, 71 Stat. 484; May 20, 1958, Pub. L. 85-422, § 1(6), 72 Stat. 124; June 30, 1960, Pub. L. 86-559, § 8, 74 Stat. 282; July 12, 1960, Pub. L. 86-635, 74 Stat. 469; Aug. 17, 1961, Pub. L. 87-145, §§ 2, 3, 75 Stat. 382.
301(e).....	37:235(e).	
301(f).....	37:301(d).	
	37:301(e) (as applicable to incentive pay).	
301(g).....	37:118a-1.	

In subsection (a), the words "is also entitled" are substituted for the words "shall, in addition thereto, be entitled". The words "For the purposes of this subsection" are inserted for clarity. The word "competent" is omitted as surplusage.

In subsection (b), the words preceding the tables are substituted for section 235(b) (words preceding tables) of existing title 37. The words "Years of service computed under section 205" are inserted in the tables for clarity.

In subsection (f), the words "a member of a reserve component of a uniformed service, or of the National Guard" are substituted for the enumeration of the organizations concerned in section 301(d) of existing title 37. The words "when . . . performs, under orders, any duty described in subsection (a)(1)-(11) for members entitled to basic pay" are substituted for the words "when required by competent orders to perform any hazardous duty prescribed by or pursuant to section 235 of this title for members of the uniformed services entitled to receive basic pay and when in consequence of such orders they do perform any hazardous duty so prescribed". The last sentence is substituted for section 301(e) (as applicable to (d)) of existing title 37.

In subsection (g), the words "entitled to incentive pay under section 301(a)(1) of this title" are substituted for the words "flight pay". At the time of the enactment of the source statute, additional pay was authorized as "flight pay". However, the Career Compensation Act of 1949 did not authorize "flight pay" but provided incentive pay in section 204(a)(1) [now section 301(a)(1) of this revised title] for "duty as a crew member . . . involving frequent and regular participation in aerial flight". The words "before January 2 of each year" are substituted for the words "On or before January 1, annually". The word "grade" is substituted for the word "rank" to conform to the definition in section 101(15) of this revised title.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-294, § 2(1), substituted "an enlisted crew member" for "a crew member".

Subsec. (g). Pub. L. 93-294, § 2(2), repealed subsec. (g) which required the Secretary of each military department to report to Congress before January 2 each year the number of officers of the Army, Navy, or Air Force, as the case may be, above the grade of major or lieutenant commander, by grade and age group, who were entitled to incentive pay under subsec. (a)(1) of this section. See section 301a of this title.

1972—Subsec. (a)(2)(A). Pub. L. 92-436 included in the hazardous duty for incentive pay of a member of a submarine operational command the application of hours served underway in excess of 48 during the preceding five calendar months and not used to qualify for incentive pay, to satisfy of underway time requirements for the current month.

1966—Subsec. (a)(2). Pub. L. 89-718 made only style changes by capitalizing the letter designations for the clauses "A", "B", and "C" and by setting off the material following clause C through the device of moving the margin to the left of the margin for the clauses.

1965—Subsec. (a)(2). Pub. L. 89-278 included duty as a member of a submarine operational command staff whose duties require serving on a submarine during underway operations for certain specified periods within the term "hazardous duty".

Subsec. (a)(12). Pub. L. 89-149, § 1, added cl. (12).

Subsec. (c). Pub. L. 89-149, § 2, included reference to cl. (12) of subsec. (a).

Subsec. (f). Pub. L. 89-149, § 3, included reference to cl. (12) of subsec. (a).

1963—Subsec. (a)(2). Pub. L. 88-132, § 6, substituted "as determined by the Secretary concerned, on a submarine (including, in the case of nuclear-powered submarines, periods of training and rehabilitation after assignment thereto), or, in the case of personnel qualified in submarines, as a prospective crew-member of a submarine being constructed, and during periods of instruction to prepare for assignment to a submarine of advanced design or a position of increased responsibility on a submarine" for "on board a submarine, including, in the case of nuclear-powered submarines, periods of training and rehabilitation after assignment thereto as determined by the Secretary concerned, and including submarines under construction from the time builders' trials begin".

Subsec. (a)(9). Pub. L. 88-132, § 7, substituted "inside a high- or low-pressure chamber" for "as a low-pressure chamber inside observer".

Subsec. (e). Pub. L. 88-132, § 8, substituted "not more than two payments" for "only one payment".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-294 effective June 1, 1974, see section 6 of Pub. L. 93-294, set out as an Effective Date note under section 301a of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

EXECUTIVE ORDER NO. 10152

Ex. Ord. No. 10152, Aug. 18, 1950, 15 F.R. 5489, as amended by Ex. Ord. No. 10618, July 1, 1955, 20 F.R. 4671; Ex. Ord. No. 10681, Oct. 24, 1956, 21 F.R. 8129; Ex. Ord. No. 10739, Nov. 19, 1957, 22 F.R. 9205; Ex. Ord. No. 10892, Nov. 10, 1960, 25 F.R. 10731; Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631, which concerned regulations relating to incentive pay for performance of hazardous duty, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note below.

EX. ORD. NO. 11157. REGULATIONS RELATING TO INCENTIVE PAY, SPECIAL PAY, AND ALLOWANCES

Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, as amended by Ex. Ord. No. 11242, Aug. 28, 1965, 30 F.R. 11205; Ex. Ord. No. 11253, Oct. 20, 1965, 30 F.R. 13509; Ex. Ord. No. 11259, Dec. 3, 1965, 30 F.R. 15057; Ex. Ord. No. 11292, Aug. 1, 1966, 31 F.R. 10447; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 11424, Aug. 29, 1968, 33 F.R. 12361; Ex. Ord. No. 11473, June 14, 1969, 34 F.R. 9485; Ex. Ord. No. 11511, Feb. 27, 1970, 35 F.R. 3877; Ex. Ord. No. 11591, Apr. 23, 1971, 36 F.R. 7833; Ex. Ord. No. 11716, Apr. 26, 1973,

38 F.R. 10621; Ex. Ord. No. 11728, July 12, 1973, 38 F.R. 18861; Ex. Ord. No. 11897, Jan. 13, 1976, 41 F.R. 2071; Ex. Ord. No. 11929, July 26, 1976, 41 F.R. 31159; Ex. Ord. No. 11939, Sept. 30, 1976, 41 F.R. 43705, provided:

By virtue of the authority vested in me by sections 301(a) and (f), 305(a), 402(f), and 403(g) of title 37 of the United States Code, and as President of the United States and Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

PART I—INCENTIVE PAY FOR HAZARDOUS DUTY

SEC. 101. For the purposes of these regulations:

(a) The term "aerial flight" shall be construed to mean flight in an aircraft, glider, or spacecraft; and a flight shall be deemed to begin when the aircraft, glider, or spacecraft takes off from rest at any point of support located on the surface of the earth and to terminate when it next comes to a complete stop at a point of support located on the surface of the earth.

(b) The term "aviation accident" shall be construed to mean an accident in which a member who is required to participate frequently and regularly in aerial flight is injured or otherwise incapacitated as the result, as attested by the appropriate medical authority of the uniformed service concerned, of (1) jumping from, being thrown from or being struck by, an aircraft, glider, or spacecraft, or any part or auxiliary thereof, or (2) participation in any duly authorized aerial flight or other aircraft, glider, or spacecraft operations.

SEC. 102. Under such regulations as the Secretary concerned may prescribe, any member of the uniformed services, including members assigned to special, administrative, or school duties, may be required by competent orders to perform hazardous duty.

SEC. 103. (a) Each member who is required by competent orders to participate frequently and regularly in aerial flights, other than glider flights, shall make the flights required as a crew member or as a non-crew member as directed by competent authority.

(b) Determinations as to what constitutes duty as a crew member and duty as a non-crew member shall be made in accordance with regulations prescribed by the Secretary concerned: *Provided*, That such determinations shall be uniform for all the services to the fullest extent practicable.

SEC. 104. Under such regulations as the Secretary concerned may prescribe, members who are required by competent orders to participate frequently and regularly in aerial flights, other than glider flights, shall be required to meet the following minimum flight requirements, except as otherwise provided in section 110 hereof, in order to be entitled to receive monthly incentive pay for the performance of hazardous duty.

(a) Minimum flight requirements for members on active duty who may qualify for incentive pay under the provisions of section 301(a) of title 37, United States Code:

(1) During one calendar month: 4 hours of aerial flight; however, hours of aerial flight performed during the immediately preceding five calendar months and not already used to qualify for incentive pay may be applied to satisfy the aerial flight requirement for that month.

(2) During any two consecutive calendar months when the requirements of clause (1) above have not been met: 8 hours of aerial flight.

(3) During any three consecutive calendar months when the requirements of clause (2) above have not been met: 12 hours of aerial flight.

(4) For fractions of a calendar month, the time of aerial flight required shall bear the same ratio to the time required for a full calendar month as the period in question bears to a full calendar month.

(5) For fractions of two consecutive calendar months, the period in question shall be considered as a unit and the time of aerial flight required shall bear the same ratio to the time required for a full calendar month as the period in question bears to a full calendar month.

(6) Whenever, under authority conferred by the Secretary concerned, the commanding officer of any member who has been required by competent orders to participate frequently and regularly in aerial flights, other than glider flights, certifies that on account of military operations of the particular command or on account of the unavailability of aircraft such member was unable to perform the aerial flights required by this section, such member may comply with the minimum flight requirements by performing at least 24 hours of aerial flight over a period of six consecutive calendar months, and such requirements may be met at any time during such period.

(b) Minimum flight requirements for members of reserve components of the uniformed services on inactive-duty training who may qualify for incentive pay under the provisions of section 301(f) of title 37, United States Code:

(1) During one calendar month: 2 hours of aerial flight; however, hours of aerial flight performed during the immediately preceding five calendar months and not already used to qualify for incentive pay may be applied to satisfy the aerial flight requirement for that month.

(2) During any two consecutive calendar months, when the requirements of clause (1) above have not been met: 4 hours of aerial flight.

(3) During any three consecutive calendar months when the requirements of clause (2) above have not been met: 6 hours of aerial flight.

(4) For fractions of a calendar month, the time of aerial flight required shall bear the same ratio to the time required for a full calendar month as the period in question bears to a full calendar month.

(5) For fractions of two consecutive calendar months, the period in question shall be considered as a unit and the time of aerial flight required shall bear the same ratio to the time required for a full calendar month as the period in question bears to a full calendar month.

(c) Minimum flight requirements for members of reserve components of the uniformed services who perform both active-duty and inactive-duty training during the same calendar month and who may qualify for incentive pay under the provisions of both sections 301(a) and 301(f) of title 37 of the United States Code:

(1) For periods of active duty, those prescribed by clause (4) of subsection (a) of this section.

(2) For periods of inactive-duty training, those prescribed by clause (4) of subsection (b) of this section.

However, the total flight requirements as determined by clauses (1) and (2) of this subsection may be met at any time during such calendar month—

(i) on inactive-duty training, or

(ii) on active-duty and inactive-duty training, if the inactive-duty flight requirement for such month has been met.

SEC. 105. Members shall not be entitled to receive incentive pay for participation in aerial flights for any period while suspended from such participation, unless such suspension is subsequently removed and the minimum flight requirements prescribed in section 104 hereof have been complied with, except as otherwise provided in section 110 and 114 hereof.

SEC. 106. (a) As determined by the Secretary of the Navy, members who, pursuant to competent orders, are attached to a submarine which is in an active status and members qualified in submarines who, pursuant to competent orders, are assigned as prospective crew members of a submarine under construction or are receiving instruction to prepare for assignment to a submarine of advanced design or for a position of increased responsibility on a submarine shall be entitled to receive incentive pay for the performance of submarine duty. In the case of nuclear-powered submarines this entitlement shall include periods of training and rehabilitation after assignment thereto. A member who, pursuant to competent orders, performs duty as an operator or crew member of an operational, self-

propelled submersible, including undersea exploration and research vehicles, shall likewise be entitled to receive incentive pay for the performance of submarine duty.

(b) As determined by the Secretary of the Navy, any member qualified in submarines who, pursuant to competent orders, is assigned as a member of a submarine operational command staff whose duties require serving on a submarine during underway operations and who—

(1) during one calendar month, so serves 48 hours; however, hours served underway in excess of 48 as a member of a submarine operational command staff during any of the immediately preceding five calendar months and not already used to qualify for incentive pay may be applied to satisfy the underway time requirements for the current month,

(2) during any two consecutive calendar months when the requirements of clause (1) above have not been met, so serves 96 hours, or

(3) during any three consecutive calendar months when the requirements of clause (2) above have not been met, so serves 144 hours,

shall be entitled to receive incentive pay for the performance of submarine duty. In computing the incentive pay of members of a submarine operational command staff under this subsection—

(1) for fractions of a calendar month, the time required to be served during underway operations shall bear the same ratio to the time required for a full calendar month as the period in question bears to a full calendar month, and

(2) for fractions of two consecutive calendar months, the period in question shall be considered as a unit and the time required shall bear the same ratio to the time required for a full calendar month as the period in question bears to a full calendar month.

SEC. 107. (a) Members who are qualified as glider personnel under such regulations as the Secretary concerned may prescribe, or who are undergoing training for such qualification, and who are required by competent orders to participate frequently and regularly in glider flights shall be required to perform one or more glider flights, without regard to duration thereof, during any three consecutive calendar months in order to be entitled to receive incentive pay for such period.

(b) Whenever, under authority conferred by the Secretary concerned, the commanding officer of any member who has been required by competent orders to participate frequently and regularly in glider flights certifies that on account of the absence or inadequacy of glider equipment or towing aircraft or other means of propulsion, or on account of military operations of the particular command, such member was unable to perform the glider flights required by this section, such member may comply with the minimum flight requirements by performing four or more glider flights, without regard to duration thereof, during a period of 12 consecutive calendar months, and such requirements may be met at any time during such period.

(c) Members of reserve components of the uniformed services who have complied with the requirement prescribed in this section shall be entitled to receive incentive pay for both active-duty and inactive-duty training performed during such period.

SEC. 108. (a) As used in section 301(a) of title 37 of the United States Code, the term "duty involving parachute jumping as an essential part of military duty" shall be construed to mean duty performed by members who, under such regulations as the Secretary concerned may prescribe, have received a rating as a parachutist or parachute rigger, or are undergoing training for such a rating, and who are required by competent orders to engage in parachute jumping from an aircraft in aerial flight.

(b) Members required by competent orders to engage in parachute jumping shall be required to perform one or more parachute jumps from an airplane in flight during any three consecutive calendar months in order to be entitled to receive incentive pay for such period.

(c) Whenever, under authority conferred by the Secretary concerned, the commanding officer of any member who has been required by competent orders to participate in parachute jumping certifies that on account of the absence of jump equipment or aircraft or on account of military operations of the particular command such member was unable to make the jumps required by this subsection, such member may comply with the minimum requirements by performing four jumps during a period of 12 consecutive calendar months, and such requirements may be met at any time during such period. The minimum requirements may be waived by the commanding officer of a member for any period that the member is unable to perform the required jumps by reason of being engaged in combat operations in a hostile fire area designated under Section 310 of Title 37 of the United States Code.

(d) Members of reserve components of the uniformed services who have complied with requirements prescribed in this section shall be entitled to receive incentive pay for both active-duty and inactive-duty training performed during such period.

SEC. 109. As used in section 301(a) of title 37 of the United States Code—

(a) The term "duty involving intimate contact with persons afflicted with leprosy" shall be construed to mean duty performed by any member who is assigned by competent orders to a leprosarium for the performance of duty for a period of 30 days or more or for a period of instruction, whether or not such leprosarium is under the jurisdiction of one of the uniformed services.

(b) The term "duty involving the demolition of explosives" shall be construed to mean duty performed by members who, pursuant to competent orders and as a primary duty assignment (1) demolish by the use of explosives underwater objects, obstacles, or explosives, or recover and render harmless, by disarming or demolition, explosives which have failed to function as intended or which have become a potential hazard; (2) participate as students or instructors in instructional training, including that in the field or fleet, for the duties described in clause (1) hereof, provided that live explosives are used in such training; (3) participate in proficiency training, including that in the field or fleet, for the maintenance of skill in the duties described in clause (1) hereof, provided that live explosives are used in such training; or (4) experiment with or develop tools, equipment, or procedures for the demolition and rendering harmless of explosives, provided that live explosives are used.

(c) The term "duty inside a high- or low-pressure chamber" shall be construed to mean duty performed within pressure chambers at physiological facilities by members assigned to that duty.

(d) The term "duty as human acceleration or deceleration experimental subject" shall be construed to mean duty performed by members exposed as human acceleration or deceleration experimental subjects utilizing experimental acceleration or deceleration devices.

(e) The term "duty as human test subject in thermal stress experiments" shall be construed to mean duty performed by members exposed as human thermal experimental subjects in thermal stress experiments conducted under the supervision of any laboratory designated by the Secretary concerned.

(f) The term "duty involving frequent and regular participation in flight operations on the flight deck of an aircraft carrier" shall be construed to mean duty performed by members who are designated for and ordered to such duty by competent authority from among the crew of a fixed-wing aircraft carrier or an aviation unit operating from that type of carrier, and who in any calendar month (1) participate in flight operations on the flight deck during a minimum of four days or (2) participate on the flight deck, in the minimum number of aircraft launches or recoveries, or both, that is prescribed by the Secretary of the Navy as the equivalent of participation under clause (1). No

member shall be entitled, however, to receive the pay provided for in this subsection if, during any month or portion thereof, he is also eligible to receive incentive pay for other hazardous duty under the provisions of section 301 of title 37, United States Code.

SEC. 110. Any member who is required by competent orders to perform hazardous duty, or multiple hazardous duties, and who becomes injured or otherwise incapacitated as a result of the performance of any such hazardous duty, by aviation accident or otherwise, shall be deemed to have fulfilled all of the requirements for the performance of all hazardous duties which he is required by competent orders to perform, for a period not to exceed three months following the date as of which such incapacity is determined by the appropriate medical authority.

SEC. 111. Members required by competent orders to perform hazardous duty shall, upon compliance with the requirements of these regulations, be entitled to receive incentive pay during authorized leaves of absence.

SEC. 112. Under such regulations as the Secretary concerned may prescribe, a member who performs multiple hazardous duties under competent orders may be paid not more than two payments of incentive pay for a period of time during which he qualifies for more than one such payment. Dual payments of incentive pay shall be limited to those members who are required by competent orders to perform specific multiple hazardous duties in order to carry out their assigned missions.

SEC. 113. The Secretaries concerned are hereby authorized to prescribe such supplementary regulations not inconsistent herewith as they may deem necessary or desirable for carrying out these regulations, and such supplementary regulations shall be uniform for all the services to the fullest extent practicable.

SEC. 114. Under such regulations as the Secretary of Defense and the Secretary of Transportation may prescribe with respect to enlisted members within their respective jurisdictions, any enlisted member who has been required by competent orders to perform duty as a crew member involving frequent and regular participation in aerial flight shall, if he is involuntarily removed from the performance of that duty, under circumstances prescribed by such regulations with less than 120 days' advance notice, be deemed to have fulfilled all of the requirements for payment of incentive pay under section 301(a)(1) or (f) of title 37 of the United States Code, for that duty for up to 120 days after the date on which he was notified of such removal.

PART II—SPECIAL PAY FOR SEA DUTY AND DUTY AT CERTAIN PLACES

SEC. 201. Enlisted members entitled to receive basic pay shall be entitled to receive, additionally, sea-duty pay while on sea duty as defined in section 202 hereof, the period of such duty to include the date of reporting and the date of detachment as stated in orders.

SEC. 202. (a) For additional-pay purposes, and except as otherwise provided in section 203 hereof, the term "sea duty" shall mean duty performed by enlisted members:

(1) While permanently assigned to a vessel, ship-based staff, or ship-based aviation unit pursuant to orders issued by competent authority, including—

(i) periods not in excess of 15 consecutive days each while on temporary additional duty ashore or while temporarily based ashore. (The term "temporarily based ashore" refers to a ship-based staff or a ship-based aviation unit that has been landed ashore with intent to return to a ship.)

(ii) periods during which messing or berthing facilities, or both, are temporarily out of operation to permit alterations or repairs.

(2) While in a vessel pursuant to orders to temporary additional duty or temporary duty on that vessel issued by competent authority although based or stationed ashore, but only when such duty is eight days or more in duration in each case.

(3) While in a vessel in an inactive duty status, special status, or in a non-self-propelled vessel, but only on days when such vessel is operating at sea for a period of eight days or more in each case.

(4) While permanently assigned, pursuant to orders issued by competent authority, to a commissioned landing-craft squadron or a commissioned motor-torpedo-boat squadron which is a tactical component of an operating fleet in an active status and the craft of which are equipped with berthing and messing facilities.

(5) While assigned to an artificial island (such as a Texas Tower) located on the outer Continental Shelf outside the territorial waters of the United States pursuant to orders issued by competent authority, including periods not in excess of 15 consecutive days each while on duty ashore or temporarily based ashore.

(6) While on an artificial island (such as a Texas Tower) located on the outer Continental Shelf outside the territorial waters of the United States pursuant to orders issued by competent authority although based or stationed ashore, but only when such duty is eight consecutive days or more in duration in each case.

(b) For the purposes of this section, and except as provided in subsection (a)(3) hereof, the word "vessel" or "ship" shall mean a self-propelled vessel in an active status, in commission or in service, and equipped with berthing and messing facilities.

SEC. 203. Except as provided in sections 202(a)(2), (3), (5), and (6) hereof, no enlisted member shall, for additional-pay purposes, be considered to be on sea duty:

(a) While on duty in a receiving ship or station ship.

(b) While on duty in vessel which is in an inactive status.

(c) While on duty with an administrative or maintenance organization that is permanently based ashore.

SEC. 204. Enlisted members entitled to receive basic pay shall be entitled to receive, additionally, pay under the rates prescribed by section 305(a) of title 37 of the United States Code, while on duty at places that are outside the contiguous 48 States and the District of Columbia and that are designated for this purpose by the Secretary of Defense or, in the case of enlisted members of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Transportation. Subject to the provisions of section 305 of title 37 of the United States Code, an enlisted member who is permanently assigned to duty at a place so designated is entitled to receive that pay during a period of authorized leave, temporary additional duty, temporary duty, or hospitalization, or while on an operational aircraft flight, but not for more than 30 days while he is away from that place. Enlisted members shall be entitled to special pay under this section when attached to ships undergoing repair and overhaul in designated foreign duty areas for extended periods when entitlement to sea-duty pay has been terminated. Such enlisted members shall be entitled to special pay under the same conditions as an enlisted member on temporary additional duty or temporary duty in that designated foreign duty area.

SEC. 205. Unless otherwise entitled to special pay in accordance with the second sentence of section 204, hereof, during period spent on temporary additional duty or temporary duty, or on operational aircraft flights, pay in accordance with section 204 shall accrue to enlisted members only for periods of eight continuous days or more in duration at places designated, including the dates of arrival at, and the dates of departure from, those places.

SEC. 206. Enlisted members shall also be entitled to additional pay at the rates prescribed by section 305(a) of title 37 of the United States Code for periods of eight or more continuous days, including movement periods not in excess of 24 hours, spent on temporary duty, temporary additional duty, or while on operational aircraft flights, including dates of reporting and detachment:

(1) While aboard more than one vessel.

(2) While at more than one designated place.

(3) While performing a combination of duty aboard a vessel or vessels and duty at a designated place or places.

SEC. 207. No enlisted member shall be entitled under this order to receive both sea-duty pay and pay for duty described in sections 204 and 205 hereof for the same period of time; nor sea-duty pay and credit for basic allowance for subsistence for the same period of time except periods during which messing facilities are temporarily out of operation to permit alterations or repairs. periods during which the member is on leave beyond the contiguous 48 States and the District of Columbia, and periods of eight or more continuous days, including movement periods not in excess of 24 hours, spent on temporary duty, temporary additional duty, or while on operational aircraft flights, including dates of reporting and detachment, while performing a combination of duty aboard a vessel or vessels and duty at a designated place or places.

SEC. 208. The Secretaries concerned (within the meaning of section 101(5) of title 37 of the United States Code), with respect to personnel of the uniformed services within their respective departments, are hereby authorized to prescribe such supplementary regulations, not inconsistent herewith, as they may deem necessary or desirable for carrying out these regulations, and such supplementary regulations shall be uniform for all the services to the fullest extent practicable.

PART III—BASIC ALLOWANCES FOR SUBSISTENCE

SEC. 301. Enlisted members who are being subsisted in kind in a mess and whose duties require them to be absent from their station during one or more meals shall be entitled for each such meal to a prorated share of the daily basic allowance for subsistence authorized for members on duty at stations where rations in kind are not available. The Secretary of Defense, the Secretary of Transportation, and the Secretary of Commerce are hereby authorized to establish the amount of the prorated share of the daily basic allowance for subsistence applicable to each one of the three daily meals, which amount shall be uniform for all the services concerned. The total of the amounts of the shares for the three daily meals shall not exceed the amount of the basic daily allowance for subsistence authorized by section 402 of title 37 of the United States Code.

SEC. 302. The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, and the Secretary of Health, Education, and Welfare with respect to the personnel of the uniformed services within their respective agencies, are hereby authorized, subject to the provisions of section 303 hereof, to prescribe such supplemental regulations, inconsistent herewith, as they may deem necessary or desirable for carrying out the provisions of this part and of the said section 402 of title 37 of the United States Code: *Provided*, That such regulations shall be uniform so far as practicable for all the services concerned.

SEC. 303. As used in regulations prescribed pursuant to section 302 hereof, those terms of the said section 402 of title 37 of the United States Code which are quoted in the subsections of this section shall have the meaning or application stated with respect thereto:

(a) The term "entitled to receive basic pay" shall be considered applicable to members while they are on the active list or while they are required to perform duty in accordance with law for which they are entitled to basic pay: *Provided*, that such term shall not be applicable to any member while absent from duty under conditions which, under laws governing the particular service concerned, would prevent him from receiving full basic pay.

(b) The term "when rations in kind are not available" shall be considered applicable in the case of enlisted members on duty at stations where it is determined, in accordance with regulations prescribed pursuant to section 302 hereof, that it is impracticable for subsistence in kind to be furnished by the United States.

(c) The term "when permission to mess separately is granted" shall be considered applicable in the case of enlisted members on duty at stations or while sick in hospitals where a mess for subsisting enlisted members is available and when such enlisted members are authorized to subsist themselves independently. Such term shall also be considered applicable in the case of enlisted members during all periods of authorized leave, including periods of leave or delay while en route between duty stations.

(d) The term "when assigned to duty under emergency conditions where no messing facilities of the United States are available" shall be considered applicable in the case of enlisted members assigned to duty under conditions requiring extraordinary expenses for subsistence as determined in accordance with regulations prescribed pursuant to section 302 hereof.

(e) The term "being subsisted at the expense of the United States" shall be considered applicable to enlisted members who are subsisted in kind by the United States and to enlisted members while they are in a travel status and are entitled to a per-diem allowance in lieu of subsistence or to a mileage allowance.

PART IV—BASIC ALLOWANCE FOR QUARTERS

SEC. 401. As used in this part:

(a) The term "entitled to receive basic pay" shall apply to a member while on the active list or while required to perform duty in accordance with law for which he is entitled to basic pay: *Provided*, That such term shall not apply to any member while absent from duty under conditions which, under laws governing the particular service concerned, would prevent him from receiving full basic pay.

(b) The term "field duty" shall mean service by a member under orders with troops operating against an enemy, actual or potential, or service with troops on maneuvers, war games, field exercises, or similar types of operations.

(c) The term "sea duty" shall mean service performed by either officer or enlisted members under conditions for which "sea duty" pay is payable to enlisted members in accordance with section 305 of title 37 of the United States Code, and regulations issued thereunder.

(d) The term "permanent station" shall mean the place on shore where a member is assigned to duty, or the home yard or the home port of a ship in which a member is required to perform duty, under orders in each case which do not in terms provide for the termination thereof; and any station on shore or any receiving ship where a member is assigned and in fact occupies, with his dependents, if any, quarters under the jurisdiction of any of the uniformed services shall also be deemed during such occupancy to be his permanent station: *Provided*, That in the case of members of the National Guard, the Air National Guard or reserve components of any of the uniformed services on active duty for training, the place where the training duty is being performed shall be deemed to be the permanent station of such members for the purposes of these regulations.

SEC. 402. Except as otherwise by statute heretofore or hereafter provided, a member shall be entitled to payment of basic allowances for quarters, in accordance with these regulations and any regulations prescribed pursuant hereto, during such time or times as he is entitled to receive basic pay.

SEC. 403. (a) Any quarters of housing facilities under the jurisdiction of any of the uniformed services in fact occupied without payment of rental charges (1) by a member and his dependents, or (2) by a member without dependents, or (3) by the dependents of a member on field duty or on sea duty or on duty at a station where adequate quarters are not available for his dependents, shall be deemed to have been assigned to such member as appropriate and adequate quarters, and no basic allowance for quarters shall accrue to such member under such circumstances unless the occupancy (A) occurs while such member is in a duty or leave status incident to a change of permanent station

and is of a temporary nature under standards prescribed by regulations issued by the Secretary of Defense in the case of members of the Army, Navy, Air Force, or Marine Corps, and the reserve components thereof, or by the appropriate Secretary in the case of members of the other uniformed services, or (B) occurs while such member is in a duty or leave status not incident to a change of permanent station and does not exceed seven consecutive days at one location: Provided, That occupancy of quarters under such circumstances for a period in excess of such 7-day period or such other temporary period as may be authorized under standards prescribed by regulations issued by the Secretary concerned shall not result in a forfeiture of basic allowance for quarters for such 7-day or other authorized period: Provided, further, That this paragraph shall not apply to occupancy of quarters as a guest of another member.

(b) Whenever the President exercises his authority under Section 1009(c) of Title 37 of the United States Code, to allocate up to 25 percent of certain increases in basic pay to basic allowances for quarters, a member without dependents who, under Section 403(b) or (c) of that title, is not entitled to a basic allowance for quarters shall become entitled to a portion of such basic allowance for quarters. The amount of such partial basic allowance for quarters shall equal the amount of any increases in basic pay which are allocated by the President to the basic allowance for quarters.

SEC. 404. When adequate quarters for his dependents are not available for assignment at his permanent station to a member with dependents, he may occupy quarters of the United States designated for members without dependents without affecting his right to receive payment of basic allowances for quarters, if permitted or required to occupy quarters at such station. Under such circumstances, a member may not occupy quarters of the United States which exceed the minimum standards for members of his grade without dependents, as prescribed by the Secretary concerned, unless the only quarters available (a) exceed the minimum standards, and (b) are made available for joint occupancy with other members.

SEC. 405. A member away from his permanent station may occupy quarters of the United States designated for members without dependents at his temporary duty station without affecting his right to receive payment of basic allowances for quarters or assignment of quarters, if any, at his permanent station. Under such circumstances, a member may not occupy quarters of the United States which exceed the minimum standards for members of his grade without dependents, as prescribed by the Secretary concerned, unless the only quarters available (a) exceed the minimum standards, and (b) are made available for joint occupancy with other members.

SEC. 406. A member serving outside the United States, its territories, or possessions in a duty assignment which has official or diplomatic responsibilities involving officials of foreign governments may be assigned quarters in excess of the minimum standards set forth in sections 404 and 405 hereof, as prescribed by the Secretary concerned: *Provided*, That no such quarters shall be available on a continuous basis for single occupancy, if such quarters are otherwise adequate for assignment as family housing to members of similar rank.

SEC. 407. The Secretaries concerned (within the meaning of section 101(5) of title 37 of the United States Code), with respect to personnel of the uniformed services within their respective departments, are hereby authorized to prescribe such supplementary regulations not inconsistent herewith as they may deem necessary or desirable for carrying out these regulations, and such supplementary regulations shall be uniform for all the services to the fullest extent practicable.

SEC. 408. Unless the Secretary concerned, or his designee, determines that military operational conditions require otherwise, a commissioned officer without dependents who is in a pay grade above pay grade O-3 and who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to his grade or rank and adequate for himself, may elect not to occupy those quarters and instead to receive the basic allowance for quarters prescribed for his pay grade by section 403 of title 37 of the United States Code.

PART V—GENERAL PROVISIONS

SEC. 501. For the purpose of these regulations, the terms defined in sections 101 and 401 of title 37 of the United States Code shall have the meanings prescribed therein.

SEC. 502. The following Executive orders are revoked:

(a) Executive Order No. 10119 of March 27, 1950.
(b) Executive Order No. 10152 of August 17, 1950.
(c) Executive Order No. 10168 of October 11, 1950.
(d) Executive Order No. 10204 of January 15, 1951.
(e) Executive Order No. 10605 of April 22, 1955.
(f) Executive Order No. 10618 of June 28, 1955.
(g) Executive Order No. 10681 of October 22, 1956.
(h) Executive Order No. 10739 of November 15, 1957.
(i) Executive Order No. 10821 of May 20, 1959.
(j) Executive Order No. 10892 of November 8, 1960.
(k) Executive Order No. 10989 of January 22, 1962.
(*l*) Executive Order No. 11120 of October 2, 1963.
(m) Executive Order No. 11146 of March 13, 1964.

LYNDON B. JOHNSON.

CROSS REFERENCES

Prohibition against receiving special pay for diving duty and incentive pay simultaneously, see section 304 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 304, 552 of this title; title 31 section 698a; title 38 section 2024.

§ 301a. Incentive pay: aviation career

(a)(1) Subject to regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled to aviation career incentive pay in the amount set forth in subsection (b) of this section for the frequent and regular performance of operational or proficiency flying duty required by orders.

(2) Aviation career incentive pay shall be restricted to regular and reserve officers who hold, or are in training leading to, an aeronautical rating or designation and who engage and remain in aviation service on a career basis.

(3) Under regulations prescribed by the Secretary of Defense, the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, or the Secretary of Commerce and the Secretary of Health, Education, and Welfare with respect to members under their respective jurisdiction, an officer (except a flight surgeon or other medical officer) who is entitled to basic pay, holds an aeronautical rating or designation, and is qualified for aviation service under regulations prescribed by the Secretary concerned, is entitled to continuous monthly incentive pay in the amount set forth in subsection (b) of this section that is applicable to him. A flight surgeon or other medical officer who is entitled to basic pay, holds an aeronautical rating or designation, and is qualified for aviation service under regulations prescribed by the Secretary concerned, is not entitled to continuous monthly incentive pay but is entitled to monthly incentive pay in the amounts set forth in subsection

(b) of this section for the frequent and regular performance of operational flying duty.

(4) To be entitled to continuous monthly incentive pay, an officer must perform the prescribed operational flying duties (including flight training but excluding proficiency flying) for 6 of the first 12, and 11 of the first 18, years of his aviation service. However, if an officer performs the prescribed operational flying duties (including flight training but excluding proficiency flying) for at least 9 but less than 11 of the first 18 years of his aviation service, he will be entitled to continuous monthly incentive pay for the first 22 years of his officer service.

(5) If upon completion of either 12 or 18 years of aviation service it is determined that an officer has failed to perform the minimum prescribed operational flying duty requirements during the prescribed periods of time, his entitlement to continuous monthly incentive pay ceases. If at the completion of 12 years of aviation service entitlement to continuous monthly incentive pay ceases, entitlement to that pay may again commence at the completion of 18 years of aviation service upon completion of the minimum operational flying duty requirements, such pay to continue for a period of time as prescribed in accordance with this section. However, if entitlement to continuous monthly incentive pay ceases in the case of any officer at the completion of either 12 or 18 years of aviation service, such officer remains entitled to monthly incentive pay for the performance of subsequent operational or proficiency flying duties up to the maximum period of time prescribed in accordance with this section.

(6) For the purposes of this section, the term—

(A) "operational flying duty" means flying performed under competent orders by rated or designated members while serving in assignments in which basic flying skills normally are maintained in the performance of assigned duties as determined by the Secretary concerned, and flying performed by members in training that leads to the award of an aeronautical rating or designation; and

(B) "proficiency flying duty" means flying performed under competent orders by rated or designated members while serving in assignments in which such skills would normally not be maintained in the performance of assigned duties.

(b) A member who satisfies the requirements described in subsection (a) of this section is entitled to monthly incentive pay as follows:

(1) For an officer in pay grades O–1 through O–10 who is qualified under subsection (a) of this section:

Phase I

Monthly rate:	*Years of aviation service (including flight training) as an officer*
$100	2 or less.
$125	Over 2.
$150	Over 3.
$165	Over 4.
$245	Over 6.

Phase II

Monthly rate:	*Years of services as an officer as computed under section 205*
$225	Over 18.
$205	Over 20.
$185	Over 22.
$165	Over 24 but not over 25.

An officer is entitled to the rates in phase I of this table until he has completed 18 years of service as an officer, after which his entitlement is as prescribed by the rates in phase II, if he has completed at least 6 years of aviation service as an officer. However, if he has over 18 years of service as an officer, but not at least 6 years of aviation service as an officer, he continues to be subject to the rates set forth in phase I of the table that apply to an officer who has less than 6 years of aviation service as an officer. An officer in a pay grade above O–6 is entitled, until he completes 25 years of service as an officer, to be paid at the rates set forth in this table, except that an officer in pay grade O–7 may not be paid at a rate greater than $160 a month, and an officer in pay grade O–8, or above, may not be paid at a rate greater than $165 a month.

(2) For a warrant officer who is qualified under subsection (a) of this section:

Monthly rate:	*Years of aviation service as an officer*
$100	2 or less.
$110	Over 2.
$200	Over 6.

For the purposes of clauses (1) and (2) of this subsection, the term "aviation service" means the service performed, under regulations prescribed by the Secretary concerned, by an officer, and the years of aviation service are computed beginning with the effective date of the initial order to perform aviation service.

(c) In time of war, the President may suspend the payment of aviation career incentive pay.

(d) Under regulations prescribed by the President and to the extent provided for by appropriations, when a member of a reserve component of a uniformed service, or of the National Guard, who is entitled to compensation under section 206 of this title, performs, under orders, duty described in subsection (a) of this section for members entitled to basic pay, he is entitled to an increase in compensation equal to 1/30 of the monthly incentive pay authorized by subsection (b)(1) or (2) of this section, as the case may be, for the performance of that duty by a member of corresponding years of aviation or officer service, as appropriate, who is entitled to basic pay. Such member is entitled to the increase for as long as he is qualified for it, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or holiday, or for the performance of such other equivalent training, instruction, duty or appropriate duties, as the Secretary may prescribe under section 206(a) of this title. This subsection does not apply to a member

who is entitled to basic pay under section 204 of this title.

(e) The Secretary of Defense shall report to Congress before October 1 each year the number of rated members by pay grade who—

(1) have 12 or 18 years of aviation service, and of those numbers, the number who are entitled to continuous monthly incentive pay under subsection (a) of this section; and

(2) are performing operational flying duties, proficiency flying, and those not performing flying duties.

(Added Pub. L. 93-294, § 2(3), May 31, 1974, 88 Stat. 177, and amended Pub. L. 94-273, § 3(21), Apr. 21, 1976, 90 Stat. 377.)

AMENDMENTS

1976—Subsec. (e). Pub. L. 94-273 substituted "October" for "July".

EFFECTIVE DATE

Section 6 of Pub. L. 93-294 provided that: "This Act [enacting this section, amending section 301 of this title, and enacting provisions set out as notes under this section] becomes effective on the first day of the first month after enactment [May 31, 1974]."

MONTHLY INCENTIVE PAY FOR CERTAIN OFFICERS ENTITLED TO INCENTIVE PAY UNDER SECTION 301(a)(1) OF THIS TITLE ON MAY 31, 1973

Section 4 of Pub. L. 93-294 provided that:

"Notwithstanding the amendments made by this Act [enacting this section and amending section 301 of this title], an officer who was entitled to incentive pay under section 301(a)(1) of title 37, United States Code, on May 31, 1973, or on the day before the effective date of this Act [June 1, 1974], if otherwise qualified on the day before the effective date of this Act [June 1, 1974], is entitled to monthly incentive pay as prescribed in either clause (1) or (2) of this section, as follows:

"(1) If he is credited with 6 or less years of aviation service as an officer, and with less than 12 years of service as an officer, he is entitled to monthly incentive pay either—

"(A) in the amount he was receiving under section 301(b) of that title on May 31, 1973, or on the day before the effective date of this Act [June 1, 1974], but with no entitlement after either of those dates, as applicable, to any longevity pay increases or increases resulting from promotion to a higher grade until such time as the rate to which he is entitled under section 301a(b) of that title, as added by this Act, is equal to or greater than the amount he was receiving under that section on May 31, 1973, or on the day before the effective date of this Act, and thereafter his entitlement is as prescribed by that section as added by this Act; or

"(B) at the rate prescribed by section 301a(b) of that title, as added by this Act;

whichever is greater. However, an officer who is promoted and assigned to pay grade O-7 or above during the 36-month period following the effective date of this Act [June 1, 1974] may not receive more than the rate which existed for that pay grade, as appropriate, prior to June 1, 1973.

"(2) If he is credited with more than 6 years of aviation service as an officer, or less than 6 years of aviation service but more than 12 years of service as an officer, he may receive monthly incentive pay at the rate prescribed in the table in section 301a(b) of title 37, United States Code, as added by this Act, that is applicable to him, or $165, whichever is greater, for not more than 36 months after the effective date of this Act [June 1, 1974], notwithstanding the provisions of section 301a(a) of that title, as added by this Act, with respect to prescribed operational flying duties (including flight training but excluding proficiency flying). However, under this clause, an officer who is assigned to the pay grade O-7 on the effective date of this Act, or is promoted to the pay grade O-7 during the 36-month period following the effective date of this Act, may not receive more than $160 per month while assigned to that grade.

The amount to which a reserve officer who is entitled to compensation under section 206 of title 37, United States Code, is entitled under this section is governed by the provisions of section 301a(d) of that title, as added by this Act."

ANNUAL REPORT BY DEPARTMENT OF DEFENSE

Section 5 of Pub. L. 93-294 provided that: "A yearly report containing such data as necessary to monitor the progress of this bill [Pub. L. 93-294] shall be made by the Department of Defense in cooperation with the Senate and House Armed Services Committees and released publicly."

EX. ORD. NO. 11800. DELEGATION OF PRESIDENT'S AUTHORITY

Ex. Ord. No. 11800, Aug. 17, 1974, 39 F.R. 30103, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States and Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense, the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Commerce and the Secretary of Health, Education, and Welfare, with respect to members of the uniformed service under their respective jurisdictions, are hereby designated and empowered to exercise, without approval, ratification, or other action by the President, the functions vested in the President by section 301a of title 37 of the United States Code, as added by section 2(3) of the Aviation Career Incentive Act of 1974 (Public Law 93-294; 88 Stat. 177) [this section] with respect to entitlement of regular and reserve officers of the uniformed services, including flight surgeons and other medical officers, to aviation career incentive pay for the frequent and regular performance of operational or proficiency flying duty.

SEC. 2. This order is effective as of June 1, 1974.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 312c of this title.

§ 302. Special pay: physicians

An officer of the Army or Navy in the Medical Corps, an officer of the Air Force who is designated as a medical officer, or a medical officer of the Public Health Service, who is on active duty for a period of at least one year is entitled, in addition to any other pay or allowances to which he is entitled, to special pay at the following rates—

(1) $100 a month for each month of active duty if he has not completed two years of active duty in a category named in this section; or

(2) $350 a month for each month of active duty if he has completed at least two years of active duty in a category named in this section.

The amounts set forth in this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 464; Pub. L. 88-2, § 5, Mar. 28, 1963, 77 Stat. 4; Pub. L. 88-132, § 4, Oct. 2, 1963, 77 Stat. 212; Pub. L. 89-718, § 53, Nov. 2, 1966, 80 Stat. 1122; Pub. L. 90-40, § 5, June 30, 1967, 81 Stat. 105; Pub. L. 92-129, title I, § 104, Sept. 28, 1971, 85 Stat. 355; Pub. L. 93-64, title II, § 201, July 9, 1973, 87 Stat. 149; Pub. L. 93-274, § 1(1), May 6, 1974, 88 Stat. 94.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
302(a).....	37:234(a).	Oct. 12, 1949, ch. 681, § 203(a), (b) (less applicability to veterinarians), 63 Stat. 809; June 25, 1952, ch. 459, § 1, 66 Stat. 156; June 29, 1953, ch. 138, § 8 (less applicability to veterinarians), 67 Stat. 89; June 30, 1955, ch. 250, § 203, 69 Stat. 225; Apr. 30, 1956, ch. 223, § 5, 70 Stat. 122; Mar. 23, 1959, Pub. L. 86-4, § 5, 73 Stat. 13.
	37:234(b) (introductory clause and last proviso, less applicability to veterinarians).	
302(b).....	37:234(b) (less introductory clause, less provisos, and less applicability to veterinarians).	
302(c).....	37:234(b) (1st and 2d provisos, less applicability to veterinarians).	

In subsection (a), clause (1) is substituted for section 234(a)(1), (2), and (3) of existing title 37. The words "of the Regular Army or the Regular Navy" and "of the Regular Air Force" are inserted in clauses (1)(A) and (B), respectively, since, in contradistinction to section 234(a)(4) of existing title 37, their source was intended to apply only to regular officers. Clauses (2) (A) and (B) are substituted for the enumeration of categories in section 234(a)(4) of existing title 37 to reflect current usage and designation of those categories. Clause (3) is substituted for section 234(a)(5) and (6) of existing title 37.

In subsection (c), the words "disability retirement pay" are omitted as covered by the words "retired pay". Section 234(b) (2d proviso) of existing title 37 is omitted as obsolete.

AMENDMENTS

1974—Pub. L. 93-274 reduced for uniformed services physicians the present four steps of special pay, which require the completion of ten years of active duty before attaining eligibility for the $350 per month maximum down to two steps, with the maximum being reached upon completion of two years of active duty, and repealed provisions relating to special pay for dentists. See section 302b of this title.

1973—Subsec. (a). Pub. L. 93-64 substituted "July 1, 1975" for "July 1, 1973", wherever appearing.

1971—Subsec. (a). Pub. L. 92-129 substituted "July 1, 1973" for "July 1, 1971", wherever appearing.

1967—Subsec. (a). Pub. L. 90-40 substituted "July 1, 1971" for "July 1, 1967" wherever appearing.

1966—Subsec. (b). Pub. L. 89-718 substituted "or" for "and" at the end of par. (3).

1963—Subsec. (a). Pub. L. 88-2 substituted "July 1, 1967" for "July 1, 1963" wherever appearing.

Subsecs. (b)(3), (4). Pub. L. 88-132 increased the monthly special pay of officers completing at least six years of active duty from $200 to $250 in clause (3) and officers completing at least 10 years of active duty from $250 to $350 in clause (4).

EFFECTIVE AND TERMINATION DATES OF 1974 AMENDMENT

Section 2 of Pub. L. 93-274, as amended by Pub. L. 94-273, § 2(18), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94-361, title III, § 305, July 14, 1976, 90 Stat. 926, provided that: "The amendments made by this Act [enacting sections 302b and 313 of this title and amending this section and section 311 of this title] become effective on the first day of the first calendar month following the date of enactment [May 6, 1974]. The authority for the special pay provided by this Act shall, unless otherwise extended by Congress, expire on September 30, 1977."

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-64 effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as an Effective Date of 1973 Amendment note under section 401 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

§ 302a. Special pay: optometrists

(a) In addition to any other basic pay, special pay, incentive pay, or allowances to which he is entitled, each of the following officers is entitled to special pay at the rate of $100 a month for each month of active duty:

(1) a commissioned officer—

(A) of the Regular Army or the Regular Navy who is designated as an optometry officer;

(B) of the Regular Air Force who is designated as an optometry officer; or

(C) who is an optometry officer of the Regular Corps of the Public Health Service;

who was on active duty on the effective date of this section; who retired before that date and was ordered to active duty after that date and before July 1, 1975; or who was designated as such an officer after the effective date of this section and before July 1, 1975;

(2) a commissioned officer—

(A) of a reserve component of the Army or Navy who is designated as an optometry officer;

(B) of a reserve component of the Air Force who is designated as an optometry officer; or

(C) who is an optometry officer of the Reserve Corps of the Public Health Service;

who was on active duty on the effective date of this section as a result of a call or order to active duty for a period of at least one year; or who, after that date and before July 1, 1975, is called or ordered to active duty for such a period; and

(3) a general officer of the Army or the Air Force appointed, from any of the categories named in clause (1) or (2), in the Army, the Air Force, or the National Guard, as the case may be, who was on active duty on the effective date of this section; who was retired before that date and was ordered to active duty after that date and before July 1, 1975; or who, after the effective date of this section, was appointed from any of those categories.

(b) The amount set forth in subsection (a) of this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay.

(Added Pub. L. 92-129, title II, § 202(a), Sept. 28, 1971, 85 Stat. 357, and amended Pub. L. 93-64, title II, § 202, July 9, 1973, 87 Stat. 149.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (a), is Oct. 1, 1971.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-64 substituted "July 1, 1975" for "July 1, 1973", wherever appearing.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-64 effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as an Effective Date of 1973 Amendment note under section 401 of this title.

EFFECTIVE DATE

Section 209 of Pub. L. 92-129 provided that: "The foregoing provisions of this title [enacting this section and section 428 of this title and amending section 203(a) and 403(a) of this title and sections 2204 and 2207 of Title 50, Appendix, War and National Defense] shall become effective on October 1, 1971, except that section 203 [enacting section 308a of this title] shall become effective on such date as shall be prescribed by the Secretary of Defense, but not earlier than February 1, 1971, and section 206 [amending section 2203 of Title 50, Appendix] shall become effective July 1, 1971."

PAY CONTINUATION

Enactment of this section not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note captioned Pay Continuation Provisions under section 203 of this title.

§ 302b. Special pay: dentists

An officer of the Army or Navy in the Dental Corps, an officer of the Air Force who is designated as a dental officer, or a dental officer of the Public Health Service, who is on active duty for a period of at least one year is entitled, in addition to any other pay or allowances to which he is entitled, to special pay at the following rates—

(1) $100 a month for each month of active duty if he has not completed two years of active duty in the Dental Corps or as a dental officer;

(2) $150 a month for each month of active duty if he has completed at least two years of active duty in the Dental Corps or as a dental officer;

(3) $250 a month for each month of active duty if he has completed at least six years of active duty in the Dental Corps or as a dental officer; or

(4) $350 a month for each month of active duty if he has completed at least ten years of active duty in the Dental Corps or as a dental officer.

The amounts set forth in this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay.

(Added Pub. L. 93-274, § 1(2), May 6, 1974, 88 Stat. 94.)

EFFECTIVE AND TERMINATION DATES

Section effective June 1, 1974, and the authority for the special pay to expire on September 30, 1977, unless otherwise extended by Congress, see section 2 of Pub. L. 93-274, set out as an Effective and Termination Dates of 1974 Amendment note under section 302 of this title.

§ 303. Special pay: veterinarians

(a) In addition to any other basic pay, special pay, incentive pay, or allowances to which he is entitled, each of the following officers is entitled to special pay at the rate of $100 a month for each month of active duty:

(1) a commissioned officer—

(A) of the Regular Army who is in the Veterinary Corps;

(B) of the Regular Air Force who is designated as a veterinary officer; or

(C) who is a veterinary officer of the Regular Corps of the Public Health Service;

who was on active duty on June 29, 1953; who retired before that date and was ordered to active duty after that date and before July 1, 1975; or who was appointed or designated as such an officer after June 29, 1953, and before July 1, 1975;

(2) a commissioned officer—

(A) of a reserve component of the Army who is in the Veterinary Corps of the Army;

(B) of a reserve component of the Air Force, of the Army or the Air Force without specification of component, or of the National Guard, who is designated as a veterinary officer of the Army or the Air Force, as the case may be; or

(C) who is a veterinary officer of the Reserve Corps of the Public Health Service;

who was on active duty on June 29, 1953, as a result of a call or order to active duty for a period of at least one year; or who, after that date and before July 1, 1975, was called or ordered to active duty for such a period; and

(3) a general officer of the Army or the Air Force appointed, from any of the categories named in clause (1) or (2) of this subsection, in the Army, the Air Force, or the National Guard, as the case may be, who was on active duty on June 29, 1953; who was retired before that date and was ordered to active duty after that date and before July 1, 1975; or who after June 29, 1953, was appointed from one of those categories.

(b) The amount set forth in subsection (a) of this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 465; Pub. L. 88-2, § 5, Mar. 28, 1963, 77 Stat. 4; Pub. L. 90-40, § 5, June 30, 1967, 81 Stat. 105; Pub. L. 92-129, title I, § 104, Sept. 28, 1971, 85 Stat. 355; Pub. L. 93-64, title II, § 203, July 9, 1973, 87 Stat. 149.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
303(a)	37:234(b) (less 1st proviso, as applicable to veterinarians). 37:234(c).	Oct. 12, 1949, ch. 681, § 203(b) (as applicable to veterinarians), (c), 63 Stat. 809; June 25, 1952, ch. 459, § 1, 66 Stat. 136; June 29, 1953, ch. 158, § 8 (as applicable to veterinarians), 67 Stat. 89; June 30, 1955, ch. 250, § 203, 69 Stat. 225; Apr. 30, 1956, ch. 223, § 5, 70 Stat. 122; Mar. 23, 1959, Pub. L. 86-4, § 5, 73 Stat. 13.
303(b)	37:234(b) (1st proviso, as applicable to veterinarians).	

In subsection (a), clause (1) is substituted for section 234(c)(1), (2), and (3) of existing title 37. The words "of the Regular Army" and "of the Regular Air Force" are inserted in clauses (1)(A) and (B), respectively, since in contradistinction to section 234(c)(4) of existing title 37, their source was intended to apply only to regular officers. Clauses (2)(A) and (B) are substituted for the enumeration of categories in section 234(c)(4) of existing title 37 to reflect current usage and designations of those categories. Clause (3) is substituted for section 234(c)(5) and (6) of existing title 37. Section 234(b) (2d proviso) of existing title 37 is omitted as obsolete. Section 234(b) (last proviso) of existing title 37 is omitted as inapplicable to veterinarians.

In subsection (b), the words "disability retirement pay" are omitted as covered by the words "retired pay".

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-64 substituted "July 1, 1975" for "July 1, 1973", wherever appearing.

1971—Subsec. (a). Pub. L. 92-129 substituted "July 1, 1973" for "July 1, 1971", wherever appearing.

1967—Subsec. (a). Pub. L. 90-40 substituted "July 1, 1971" for "July 1, 1967" wherever appearing.

1963—Subsec. (a). Pub. L. 88-2 substituted "July 1, 1967" for "July 1, 1963" wherever appearing.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-64 effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as an Effective Date of 1973 Amendment note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 306 of this title.

§ 304. Special pay: diving duty

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who is entitled to basic pay and who is assigned by orders to the duty of diving is also entitled to special pay at a rate not more than $110 a month for periods during which diving duty is actually performed. A member may not be paid special pay under this subsection in addition to incentive pay authorized under section 301 of this title.

(b) In time of war, the President may suspend the payment of diving-duty pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 465.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
304(a)	37:236(a), (b).	Oct. 12, 1949, ch. 681, § 205, 63 Stat. 810; Mar. 31, 1955, ch. 20, § 2(8)-(10), 69 Stat. 21; Aug. 17, 1961, Pub. L. 87-145, § 1, 75 Stat. 362.
304(b)	37:236(c).	

In subsection (a), the last sentence is substituted for section 236(b) of existing title 37. The word "competent" is omitted as surplusage.

§ 305. Special pay: while on sea duty or duty at certain places

(a) Except as provided by subsection (b) of this section, under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay—

(1) is entitled, while on sea duty, to; or

(2) may be paid, while on duty at a designated place outside the 48 contiguous States and the District of Columbia;

special pay at the following monthly rates:

Pay grade	Monthly rate
E-9	$22.50
E-8	22.50
E-7	22.50
E-6	20.00
E-5	16.00
E-4	13.00
E-3	9.00
E-2	8.00
E-1	8.00

(b) Appropriations of the Department of Defense may not be paid, as foreign duty pay under subsection (a) of this section, to a member of a uniformed service who is a resident of a State, Puerto Rico, the Virgin Islands, a possession, or a foreign country and who is serving in that State, Puerto Rico, the Virgin Islands, that possession, or that foreign country, as the case may be.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 465; Pub. L. 88-132, § 12(a), Oct. 2, 1963, 77 Stat. 217; Pub. L. 90-623, § 3(4), Oct. 22, 1968, 82 Stat. 1314.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
305(a)	37:237.	Oct. 12, 1949, ch. 681, § 206, 63 Stat. 811; May 20, 1958, Pub. L. 85-422, § 1(7), 72 Stat. 125.
305(b)	37:237a.	June 30, 1954, ch. 432, § 729, 68 Stat. 355.

In subsection (a), the words "Except as provided by subsection (b) of this section" are inserted for clarity. The words "is also . . . entitled" are substituted for the words "shall, in addition thereto . . . be entitled". The words "any place outside the United States, or in Alaska or Hawaii" are substituted for the words "beyond the continental limits of the United States or in Alaska", since, under the source statute, Hawaii was

beyond the continental limits of the United States, and the United States, as defined in section 101(1) of this revised title, would otherwise include Alaska and Hawaii. This interpretation conforms to the opinion of the Comptroller General, B–138956, April 20, 1959 (38 Comp. Gen. 710).

In subsection (b), the words "Appropriation of" are substituted for the words "of the funds appropriated to" The words "may not be paid" are substituted for the words "no part . . . shall be available for the payment" The words "member of a uniformed service" are substituted for the words "person in the military service" to conform to subsection (a). The words "Puerto Rico" are inserted for clarity, since the source statute was applicable to that place. The words "Virgin Islands" are inserted, since that unincorporated territory is not covered by the word "possession". The word "Territory" is omitted as obsolete.

AMENDMENTS

1968—Subsec. (a)(2). Pub. L. 90–623 substituted "48 contiguous States" for "contiguous 48 States".

1963—Pub. L. 88–132 substituted "while on sea duty or duty at certain places" for "sea and foreign duty" in the catchline.

Subsec. (a). Pub. L. 88–132 designated existing provisions as clause (1) and substituted the provisions of clause (2) permitting special pay for an enlisted member of a uniformed service while on duty at a designated place outside the contiguous 48 States and the District of Columbia for former provision entitling such member to special pay while on duty in any place outside the United States, or in Alaska or Hawaii.

Subsec. (b). Pub. L. 88–132 substituted "a State, Puerto Rico, the Virgin Islands, a possession, or a foreign country and who is serving in that State, Puerto Rico, the Virgin Islands, that possession, or that foreign country" for "Alaska, Hawaii, Puerto Rico, the Virgin Islands, or a possession, unless that member is serving in an area outside Alaska, Hawaii, the Virgin Islands, or a possession, of which he is a resident".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

SAVINGS PROVISIONS

Section 12(b) of Pub. L. 88–132 provided that: "Notwithstanding subsection (a) [amending this section], an enlisted member who, on the day before the effective date of this Act [Oct. 1, 1963], was permanently assigned to duty at a place outside the United States or in Alaska or Hawaii, shall, during the remaining period of that assignment, but not after that place is designated for the purpose of section 305(a)(2) of title 37, United States Code, be paid the basic pay to which he was entitled on that date plus special pay under section 305 of title 37, United States Code, whenever qualified thereunder as that section was in effect on the day before the effective date of this Act, if the total of that basic pay and that special pay is more than the basic pay to which he would otherwise be entitled during that period under section 2 of this Act [amending section 203 of this title]."

REGULATIONS RELATING TO SPECIAL PAY

Regulations relating to special pay for sea duty and duty at certain places, see Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

EXECUTIVE ORDER NO. 10168

Ex. Ord. No. 10168, Oct. 11, 1950, 15 F.R. 6877, as amended by Ex. Ord. No. 10821, May 20, 1959, 24 F.R. 4123; Ex. Ord. No. 10989, Jan. 23, 1962, 27 F.R. 727; Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631, which concerned regulations relating to special pay for sea duty and duty at certain places, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

§ 306. Special pay: officers holding positions of unusual responsibility and of critical nature

(a) The Secretary concerned may designate positions of unusual responsibility which are of a critical nature to an armed force under his jurisdiction and may pay special pay, in addition to other pay prescribed by law, to an officer of an armed force who is entitled to the basic pay of pay grade O–3, O–4, O–5, or O–6 and who is performing the duties of such a position, at the following monthly rates:

Pay grade	Monthly rate
O–6	$150
O–5	100
O–4	50
O–3	50

(b) The Secretary concerned shall prescribe the criteria and circumstances under which officers of an armed force under his jurisdiction are eligible for special pay under this section and, when he considers it necessary, may abolish that special pay.

(c) Not more than 5 percent of the number of officers on active duty (other than for training) in an armed force in pay grade O–3, and not more than 10 percent of the number of officers on active duty in an armed force in pay grade O–4, O–5, or O–6, may be paid special pay under this section.

(d) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction, and by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(e) This section does not apply to a person who is entitled to special pay under section 302 or 303 of this title.

(f) The Secretary of Defense shall report to Congress by March 1 of each year on the administration of this section within each military department during the preceding calendar year. The Secretary of Transportation shall make a similar report for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 466; Pub. L. 90–623, § 3(1), Oct. 22, 1968, 82 Stat. 1314.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
306(a)	37:241(a) (less last sentence).	Oct. 12, 1949, ch. 681, § 210; added May 20, 1958, Pub. L. 85–422, § 1(8), 72 Stat. 126.
306(b)	37:241(a) (last sentence).	
306(c)	37:241(b).	
306(d)	37:241(c).	

HISTORICAL AND REVISION NOTES—Continued

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
306(e)	37:241(d).	
306(f)	37:241(e).	

In subsection (a), the words "an armed force under his jurisdiction" are substituted for the words "the service concerned" in the first sentence of section 241(a) of existing title 37 to conform to the last sentence of that subsection.

In subsection (c), the words "(other than for training)" are inserted for clarity, since members on duty for training only are not included in computing strength authorizations.

AMENDMENTS

1968—Subsecs. (d), (f). Pub. L. 90-623 substituted "Secretary of Transportation" for "Secretary of the Treasury".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on October 22, 1968, see section 6 of Pub. L. 90-623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

§ 307. Special pay: proficiency pay for enlisted members

(a) An enlisted member of a uniformed service who is entitled to basic pay and is designated as being specially proficient in a military skill of the uniformed service concerned may—

(1) be advanced to an enlisted pay grade that is higher than his pay grade at the time of his designation and be entitled to the basic pay and special or incentive pay of that higher grade; or

(2) in addition to other pay or allowances to which he is entitled under this title, be paid proficiency pay at a monthly rate that is not more than the rate prescribed in the following table for the proficiency rating to which he is assigned:

Proficiency rating	Maximum monthly rate
P-1	$50
P-2	100
P-3	150

(b) An enlisted member who has less than 8 or 10 years, as the case may be, of enlisted service computed under section 205 of this title and who is advanced under subsection (a)(1) of this section to pay grade E-8 or E-9, respectively, is entitled to the minimum amount of basic pay and special or incentive pay prescribed for that pay grade until his years of service computed under that section entitle him to a higher rate of those pays.

(c) The Secretary concerned shall determine whether enlisted members of a uniformed service under his jurisdiction are to be paid proficiency pay either under subsection (a)(1) or (a)(2) of this section. However, he may elect only one of these methods for each uniformed service under his jurisdiction. If he elects to have proficiency pay paid under subsection (a)(1) of this section, enlisted members in a military grade or rank assigned to pay grade E-8 or E-9 may be paid proficiency pay at a monthly rate that is not more than the highest rate prescribed by subsection (a)(2) of this section. If he elects to have proficiency pay paid under subsection (a)(2) of this section, he shall prescribe, within the limitations set forth in that subsection, the pay for each proficiency rating prescribed therein. He shall also designate, from time to time, those skills within each uniformed service under his jurisdiction for which proficiency pay is authorized, and shall prescribe the criteria under which members of that uniformed service are eligible for a proficiency rating in each skill. He may, when he considers it necessary, increase, decrease, or abolish proficiency pay for any skill.

(d) This section shall be administered under regulations prescribed by the Secretary of Defense for the uniformed services under his jurisdiction, and by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 467; Pub. L. 90-623, § 3(1), Oct. 22, 1968, 82 Stat. 1314.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
307(a)	37:240(a).	Oct. 12, 1949, ch. 681,
307(b)	37:240(b).	§ 209; added May 20,
307(c)	37:240(c).	1958, Pub. L. 85-422,
307(d)	37:240(d).	§ 1(8), 72 Stat. 125.

In subsection (a)(1), the words "prescribed in section 232(a) of this title" and "in accordance with his cumulative years of service for pay purposes" are omitted as surplusage and as covered by sections 201, 202, and 203 of this revised title.

In subsection (a)(2), the words "special or incentive pays" are omitted as surplusage.

In subsections (a)(1) and (b), the word "allowances" is omitted, since, under sections 402 and 403 of this revised title, allowances depend upon pay grade to which assigned, or in which distributed for basic pay purposes.

In subsection (b), the words "computed under section 205 of this title" are substituted for the words "cumulative . . . for pay purposes".

AMENDMENTS

1968—Subsec. (d). Pub. L. 90-623 substituted "Secretary of Transportation" for "Secretary of the Treasury".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968 see section 6 of Pub. L. 90-623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

CROSS REFERENCES

Authorized daily average of members in pay grades E-8 and E-9, see section 517 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 517.

§ 308. Special pay: reenlistment bonus

(a) A member of a uniformed service who—

(1) has completed at least twenty-one months of continuous active duty (other than for training) but not more than ten years of active duty;

(2) is designated as having a critical military skill by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy;

(3) is not receiving special pay under section 312a of this title; and

(4) reenlists or voluntarily extends his enlistment in a regular component of the service concerned for a period of at least three years;

may be paid a bonus, not to exceed six months of the basic pay to which he was entitled at the time of his discharge or release, multiplied by the number of years, or the monthly fractions thereof, of additional obligated service, not to exceed six years, or $15,000, whichever is the lesser amount. Obligated service in excess of twelve years will not be used for bonus computation.

(b) Bonus payments authorized under this section may be paid in either a lump sum or in installments.

(c) For the purpose of computing the reenlistment bonus in the case of an officer with prior enlisted service who may be entitled to a bonus under subsection (a) of this section, the monthly basic pay of the grade in which he is enlisted, computed in accordance with his years of service computed under section 205 of this title, shall be used instead of the monthly basic pay to which he was entitled at the time of his release from active duty as an officer.

(d) A member who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid.

(e) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(f) No bonus shall be paid under this section with respect to any reenlistment, or voluntary extension of an active-duty enlistment, in the armed forces entered into after June 30, 1977.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 467; Pub. L. 89-132, § 3, Aug. 21, 1965, 79 Stat. 547; Pub. L. 90-623, § 3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 93-277, § 2(1), May 10, 1974, 88 Stat. 119.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
308(a)	37:239(a).	Oct. 12, 1949, ch. 681, § 208, added July 16, 1954, ch. 535, § 2, 68 Stat. 488; July 25, 1961, Pub. L. 87-103, § 1 (as applicable to § 208), 75 Stat. 219.
	37:239(e).	
308(b)	37:239(b).	
308(c)	37:239(c).	
308(d)	37:239(d).	
308(e)	37:239(f).	
308(f)	37:239(g).	

In subsection (a), the words "reenlists . . . after . . . compulsory or voluntary active duty or who voluntarily extends his enlistment for at least two years" are substituted for the words "reenlists . . . after . . . active duty" and section 239(e) of existing title 37. The words "(other than for training)" are inserted, since the source statute has been consistently interpreted to exclude that kind of duty. The words "or release" are inserted in column 1 of the table and in footnotes 2, 4, and 5 to conform to the introductory language preceding the tables.

In subsection (b), the words "a total of" are omitted as surplusage.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-277 added subsec. (a). Former subsec. (a) which provided for payment of bonus to members reenlisting in a regular component of the service within three months after the date of discharge or release from compulsory or voluntary active duty, or voluntarily extending enlistment for at least two years, and not covered by section 207 of the Career Compensation Act of 1949, and which also provided a table for the computation of the amount of bonus, was omitted.

Subsec. (b). Pub. L. 93-277 added subsec. (b). Former subsec. (b) which made it ineligible to receive bonus for members reenlisting during the prescribed period of basic recruit training or after completion of 20 years of active Federal service, and which also provided for the computation of bonus to members enlisting before the completion of 20 years of active Federal service, by using as a multiplier only the number of years which, when added to the previous service total 20 years, was omitted.

Subsec. (c). Pub. L. 93-277 added subsec. (c). Former subsec. (c) which provided for a maximum limit of $2,000 payable as reenlistment bonus was omitted. See subsec. (a) of this section.

Subsec. (d). Pub. L. 93-277 added subsec. (d). Former subsec. (d) which provided that an officer of a uniformed service enlisting within three months after release from active duty as an officer would be entitled to a bonus computed under former subsec. (a) of this section only if he served as an enlisted member immediately before serving as an officer, and which defined monthly basic pay for the purposes of this subsection, was omitted.

Subsec. (e). Pub. L. 93-277 added subsec. (e). Former subsec. (e) which provided for refund of bonus by members who do not complete the term of enlistment was omitted. See subsec. (d).

Subsec. (f). Pub. L. 93-277 added subsec. (f). Former subsec. (f) which authorized the Secretary concerned to prescribe regulations for the administration of this section in his department was omitted. See subsec. (e) of this section.

Subsec. (g). Pub. L. 93-277 omitted subsec. (g) which provided for the payment of additional bonus to members of the Coast Guard having critical military skills.

1968—Subsecs. (e), (g). Pub. L. 90-623 substituted "Secretary of Transportation" for "Secretary of the Treasury".

1965—Subsec. (g). Pub. L. 89-132 added subsec. (g).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 4 of Pub. L. 93-277 provided that: "The amendments made by this Act [amending this section and section 308a of this title and enacting provisions set out as notes under this section] become effective on the first day of the month following the date of enactment [May 10, 1974]."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-132 effective Sept. 1, 1965, see section 10 of Pub. L. 89-132, set out as an Effective Date of 1965 Amendment note under section 203 of this title.

OPTIONAL CHOICE OF REENLISTMENT BONUS

Section 3 of Pub. L. 93-277 provided that: "Notwithstanding section 308 of title 37, United States Code, as amended by this Act [Pub. L. 93-277], a member of a uniformed service on active duty on the effective date of this Act [May 10, 1974], who would have been eligible, at the end of his current or subsequent enlistment, for the reenlistment bonus prescribed in section 308(a) or (d) of that title [subsec. (a) or (d) of this section], as it existed on the day before the effective date of this Act, shall continue to be eligible for the reenlistment bonus under that section [this section] as it existed on the day before the effective date of this act. If a member is also eligible for the reenlistment bonus prescribed in that section [this section] as amended by this Act [Pub. L. 93-277], he may elect to receive either one of those reenlistment bonuses. However, a member's eligibility under section 308(a) or (d) of that title, as it existed on the day before the effective date of this Act, terminates when he has received a total of $2,000 in reenlistment bonus payments, received under either section 308(a) or (d) of that title as it existed on the day before the effective date of this Act, or under section 308 of that title, as amended by this Act [Pub. L. 93-277], or from a combination of both."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 312a of this title.

§ 308a. Special pay: enlistment bonus

(a) Notwithstanding section 514(a) of title 10 or any other law, under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who enlists in an armed force for a period of at least four years in a skill designated as critical, or who extends his initial period of active duty in that armed force to a total of at least four years in a skill designated as critical, may be paid a bonus in an amount prescribed by the appropriate Secretary, but not more than $3,000. The bonus may be paid in a lump sum or in equal periodic installments, as determined by the appropriate Secretary.

(b) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid.

(c) No bonus shall be paid under this section with respect to any enlistment or extension of an initial period of active duty in the armed forces made after June 30, 1977.

(Added Pub. L. 92-129, title II, § 203(a), Sept. 28, 1971, 85 Stat. 358, and amended Pub. L. 93-64, title II, § 204, July 9, 1973, 87 Stat. 149; Pub. L. 93-277, § 2(2), May 10, 1974, 88 Stat. 120.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-277 substituted provisions authorizing payment of enlistment bonus according to regulations to be issued, to persons enlisting in an armed force for at least four years in a skill designated as critical, and to those extending their initial period of active duty in the armed force to a total of at least four years in a skill designated as critical, for provisions authorizing payment of enlistment bonus to persons enlisting in the career field of Infantry, Field Artillery, or Tank and Amphibian Tractor in the Marine Corps for at least three years and to those extending their initial period of active duty in such a career field to a total of at least three years.

Subsec. (b). Pub. L. 93-277 substituted "Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy," for "Secretary of Defense".

Subsec. (c). Pub. L. 93-277 substituted "June 30, 1977" for "June 30, 1974".

1973—Subsec. (a). Pub. L. 93-64, § 204(1), substituted in first sentence "the career field of Infantry, Armor, or Field Artillery Cannon in the Army, or the career field of Infantry, Field Artillery, or Tank and Amphibian Tractor in the Marine Corps", for "any combat element of an armed force" and "such a career field" for "a combat element of an armed force".

Subsec. (c). Pub. L. 93-64, § 204(2), substituted "June 30, 1974" for "June 30, 1973".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-277 effective on June 1, 1974, see section 4 of Pub. L. 93-277, set out as an Effective Date of 1974 Amendment note under section 308 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-64 effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as an Effective Date of 1973 Amendment note under section 401 of this title.

EFFECTIVE DATE

Section effective on a date to be prescribed by the Secretary of Defense, but not earlier than Feb. 1, 1971, see section 209 of Pub. L. 92-129, set out as an Effective Date note under section 302a of this title.

PAY CONTINUATION

Enactment of this section not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note captioned Pay Continuation Provisions under section 203 of this title.

§ 309. Reserves; members of National Guard: additional pay for performance of administrative duty

(a) Under regulations prescribed by the Secretary concerned, an officer of the National Guard or of a reserve component of a uniformed service who commands an organization, and has administrative functions connected with it, is entitled to not more than $240 a year for the faithful performance of those functions, in addition to pay to which he is entitled under section 206 of this title.

(b) For the purpose of determining the amounts to be paid to officers performing the functions described in subsection (a) of this section, the Secretary concerned may, from time to time, divide those officers into classes and fix the amount payable to officers in each class.

(c) This section does not apply to an officer who is entitled to basic pay under section 204 of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 468.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
309(a)	37:301(c) (less words following semicolon).	Oct. 12, 1949, ch. 681, § 501(c), (e) (as applicable to administrative pay), 63 Stat. 826, 827; June 30, 1960, Pub. L. 86-559, § 8, 74 Stat. 282.
309(b)	37:301(c) (words following semicolon).	
309(c)	37:301(e) (as applicable to administrative pay).	

In subsection (a), the words "of the National Guard or of a reserve component of a uniformed service" are substituted for the enumeration of organizations.

Subsection (c) is substituted for section 301(e) (as applicable to administrative pay) of existing title 37.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 698a; title 38 section 2024.

§ 310. Special pay: duty subject to hostile fire

(a) Except in time of war declared by Congress, and under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay at the rate of $65 a month for any month in which he was entitled to basic pay and in which he—

(1) was subject to hostile fire or explosion of hostile mines;

(2) was on duty in an area in which he was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period he was on duty in that area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines; or

(3) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

A member covered by clause (3) who is hospitalized for the treatment of his injury or wound may be paid special pay under this section for not more than three additional months during which he is so hospitalized.

(b) A member may not be paid more than one special pay under this section for any month. A member may be paid special pay under this section in addition to any other pay and allowances to which he may be entitled.

(c) Any determination of fact that is made in administering this section is conclusive. Such a determination may not be reviewed by any other officer or agency of the United States unless there has been fraud or gross negligence. However, the determination may be changed on the basis of new evidence or for other good cause.

(d) The Secretary of Defense shall report to Congress by March 1 of each year on the administration of this section during the preceding calendar year.

(Added Pub. L. 88-132, § 9(a)(1), Oct. 2, 1963, 77 Stat. 216, and amended Pub. L. 89-132, § 4, Aug. 21, 1965, 79 Stat. 547.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-132 increased the rate of special pay from $55 to $65 a month.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-132 effective Sept. 1, 1965, see section 10 of Pub. L. 89-132, set out as an Effective Date of 1965 Amendment note under section 203 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 411a of this title; title 10 sections 701, 703, 1079; title 20 section 1087ee.

§ 311. Special pay: continuation pay for physicians and dentists who extend their service on active duty

(a) Under regulations to be prescribed by the Secretary of Defense, or by the Secretary of Health, Education, and Welfare, as appropriate, an officer of the Army or Navy in the Medical Corps above the pay grade of O–6 or such an officer who is below that pay grade who is undergoing initial residency training and who was on active duty on June 1, 1974, an officer of the Air Force who is designated as a medical officer and is above the pay grade of O–6 or such an officer who is below that pay grade who is undergoing initial residency training and who was on active duty on June 1, 1974, a medical officer of the Public Health Service above the pay grade of O–6 or such an officer who is below that pay grade who is undergoing initial residency training and who was on active duty on June 1, 1974, an officer of the Army or Navy in the Dental Corps, an officer of the Air Force who is designated as a dental officer, or a dental officer of the Public Health Service who—

(1) is serving on active duty in a critical specialty designated by the Secretary;

(2) has completed his initial active duty obligation; and

(3) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay at the rate applicable to him when he executes that agreement for each additional year that he agrees to remain on active duty. Pay under this section shall be paid in equal annual or semiannual installments, as determined by the Secretary of Defense or the Secretary of Health, Education, and Welfare, as appropriate, in each additional year covered by an agreement to remain on active duty. However, in meritorious cases, the pay may be paid in fewer installments if the Secretary determines it to be in the best interest of the officer.

(b) An officer who does not serve on active duty for the entire period for which he was paid under this section shall refund that percentage of the payment that the unserved part of the period is of the total period for which the payment was made.

(c) The Secretary of Defense and the Secretary of Health, Education, and Welfare shall submit separate written reports each year to the Committees on Armed Services of the Senate and House of Representatives regarding the operation of the special pay program authorized by subsection (a) of this section and,

whenever such special pay program is to be continued in operation, such report shall include the justification for continuing such program. Reports under this section shall be made on a calendar year basis, beginning with the calendar year 1968, and the reports for any calendar year shall be submitted not later than April 1 of the succeeding calendar year.

(Added Pub. L. 90-207, § 1(2)(A), Dec. 16, 1967, 81 Stat. 651, and amended Pub. L. 90-603, § 1, Oct. 18, 1968, 82 Stat. 1187; Pub. L. 90-623, § 3(5), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 93-274, § 1(3), May 6, 1974, 88 Stat. 95; Pub. L. 93-394, § 1, Aug. 29, 1974, 88 Stat. 792.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-394 inserted "or such an officer who is below that pay grade who is undergoing initial residency training and who was on active duty on June 1, 1974" immediately after "pay grade of O-6" in three places in the opening paragraph.

Pub. L. 93-274 substituted "the Medical Corps above the pay grade of O-6, an officer of the Air Force who is designated as a medical officer and is above the pay grade of O-6, a medical officer of the Public Health Service above the pay grade of O-6, an officer of the Army or Navy in the Dental Corps, an officer of the Air Force who is designated as a dental officer, or dental officer of the Public Health Service" for "the Medical or Dental Corps, an officer of the Air Force who is designated as a medical officer or dental officer, or a medical or dental officer of the Public Health Service".

1968—Subsec. (a). Pub. L. 90-623 substituted "more than four months' basic pay" for "more than four months basic pay".

Subsec. (a)(2). Pub. L. 90-603 substituted "has completed his initial active duty obligation" for "has completed any other definitive active duty obligation that he has under law or regulation".

EFFECTIVE AND TERMINATION DATES OF 1974 AMENDMENTS

Section 2 of Pub. L. 93-394 provided that: "The amendment made by the Act [amending subsec. (a) of this section] shall be effective June 1, 1974."

Amendment by Pub. L. 93-274 effective June 1, 1974, and the authority for the special pay to expire on September 30, 1977, unless otherwise extended by Congress, see section 2 of Pub. L. 93-274, set out as Effective and Termination Dates of 1974 Amendments note under section 302 of this title.

EFFECTIVE DATE OF 1968 AMENDMENTS

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

Section 2 of Pub. L. 90-603 provided that: "The amendment made by this Act [to subsec. (a)(2) of this section] becomes effective as of January 1, 1968."

EFFECTIVE DATE

Section effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as an Effective Date of 1967 Amendment note under section 203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1263.

§ 312. Special pay: nuclear-qualified officers extending period of active service

(a) Under regulations to be prescribed by the Secretary of the Navy, an officer of the naval service who—

(1) is entitled to basic pay;

[(2) Repealed. Pub. L. 92-581, § 1(2)(A), Oct. 27, 1972, 86 Stat. 1277.]

(3) has the current technical qualification for duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants;

(4) has not completed ten years of commissioned service; and

(5) executes a written agreement to remain on active duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants for one period of four years in addition to any other period of obligated active service,

may, upon the acceptance by the Secretary or his designee of the written agreement, in addition to all other compensation to which he is entitled, be paid a sum of money not to exceed $5,000 for each year of the active-service agreement. The Secretary of the Navy shall determine semiannually the necessity for continuance of the special pay and the rate of special pay per year for such active-service agreements accepted within each six-month period. Upon acceptance of the agreement by the Secretary or his designee, the total amount payable shall become fixed and shall be paid in four equal yearly installments, commencing at the expiration of the initial obligated service; except, the Secretary or his designee may accept the active-service agreement not more than one year in advance of the expiration of the initial obligated active service and the amount may then be paid in five yearly installments, not to exceed $4,000 per year, commencing with the date of acceptance of the agreement.

(b) No more than one agreement for each officer shall be accepted under this section.

(c) Pursuant to regulations prescribed by the Secretary of the Navy and subject to such exceptions as may be prescribed in those regulations, refunds, on a pro rata basis, of sums paid pursuant to this section may be required if the officer having received the payment fails to complete the full period of four years of active duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants which he agreed to serve.

(d) Nothing in this section shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion of the additional period of four years' active service under this section shall in no way obligate the President to accept a resignation submitted by a regular officer at the end of the four-year period.

(e) The provisions of this section shall be effective only in the case of officers who, on or before September 30, 1981, execute the required written agreement to remain in active service.

(Added Pub. L. 91-20, § 1(1), June 3, 1969, 83 Stat. 12, and amended Pub. L. 92-581, § 1(1), (2), Oct. 27, 1972, 86 Stat. 1277; Pub. L. 94-356, § 2, July 12, 1976, 90 Stat. 901.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-356, § 2(1), substituted "$5,000" for "$3,750" and "$4,000" for "$3,000".

Subsec. (e). Pub. L. 94-356, § 2(2), substituted "September 30, 1981" for "June 30, 1975".

1972—Pub. L. 92-581, § 1(1), struck out "submarine" in the section catchline.

Subsec. (a)(2). Pub. L. 92-581, § 1(2)(A), struck out cl. (2) which referred to officers of the naval service currently designated "qualified in submarines".

Subsec. (a)(5). Pub. L. 92-581, § 1(2)(B), substituted "on active duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants", for "in active submarine service".

Subsec. (c). Pub. L. 92-581, § 1(2)(C), substituted "duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants", for "submarine service".

Subsec. (d). Pub. L. 92-581, § 1(2)(D), struck out "submarine".

Subsec. (e). Pub. L. 92-581, § 1(2)(E), substituted "1975" for "1973".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 5 of Pub. L. 94-356 provided that: "This Act [enacting section 312b of this title, amending this section, and enacting provisions set out as notes under this section and section 301 of this title] becomes effective on the first day of the first month after enactment [Aug. 1, 1976], except that section 312c of title 37, United States Code, as added by this Act, is effective as of October 1, 1975".

EXCHANGE OF ACTIVE SERVICE AGREEMENTS BY NAVAL OFFICERS

Section 4 of Pub. L. 94-356 provided that:

"Notwithstanding any other provision of this Act [enacting section 312b and 312c of this title, amending this section, and enacting provisions set out as notes under this section and section 301 of this title] or any other provision of law, and under regulations prescribed by the Secretary of the Navy, an officer of the naval service who, on or after the effective date of this Act [see Effective Date of 1976 Amendment above], is, or will be, performing obligated service as the result of an active service agreement executed in accordance with section 312 of title 37, United States Code as it existed at any time before the effective date of this Act, may be permitted—

"(1) as of the last day of the first year of that obligated service, to cancel that active service agreement in exchange for a new active service agreement in accordance with section 312 of title 37, as amended by this Act; or

"(2) as of the last day of any year, other than the last year, of that obligated service, to cancel that active service agreement in exchange for eligibility for the annual bonus authorized by section 312c of title 37, as added by this Act, and an agreement to remain on active duty for a period of time equal to the period of obligated service remaining under that active service agreement".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 312c of this title.

§ 312a. Special pay: nuclear-trained and qualified enlisted members

(a) Under regulations prescribed by the Secretary of Defense, an enlisted member of the naval service who—

(1) is entitled to basic pay;

(2) is currently qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; and

(3) has completed at least six, but not more than ten, years of active duty and executes, when eligible, a reenlistment agreement for not less than two years;

may upon acceptance of the reenlistment agreement by the Secretary of the Navy or his designee, be paid a bonus not to exceed six months of the basic pay to which he was entitled at the time of his discharge or release, multiplied by the number of years or the monthly fractions thereof of additional obligated service, not to exceed six years, or $15,000, whichever is the lesser amount.

(b) Bonus payments authorized under this section may be paid in either a lump sum or in installments.

(c) An amount paid to a member under subsection (a) of this section is in addition to all other compensation to which he is entitled and does not count against the limitation prescribed by section 308(c) of this title concerning the total amount of reenlistment bonus that may be paid. However, if he receives payment under this section, he is not entitled to any further payments under section 308(g) of this title.

(d) Under regulations prescribed by the Secretary of the Navy, refunds, on a pro rata basis, of sums paid under subsection (a) of this section may be required, and further payments terminated, if the member who has received the payment fails to complete his reenlistment contract or fails to maintain his technical qualification for duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants.

(e) Provisions of this section shall be effective only in the cases of members who, on or before June 30, 1975, execute the required written agreement to remain in active service.

(Added Pub. L. 92-581, § 1(3), Oct. 27, 1972, 86 Stat. 1277.)

REFERENCES IN TEXT

Section 308(c) of this title, referred to in subsec. (c), which related to a $2,000 maximum limit as reenlistment bonus, was omitted from the Code by Pub. L. 93-277, § 2(1), May 10, 1974, 88 Stat. 119. See now section 308(a) of this title.

Section 308(g) of this title, referred to in subsec. (c), which related to an additional bonus to members of the Coast Guard having critical skills, was omitted from the Code by Pub. L. 93-277, § 2(1), May 10, 1974, 88 Stat. 119.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 308 of this title.

§ 312b. Special pay: nuclear career accession bonus

(a) Under regulations prescribed by the Secretary of the Navy, an officer of the naval service who—

(1) is entitled to basic pay;

(2) has not completed five years of commissioned service; and

(3) has, as a commissioned officer, received training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants;

may, upon successful completion of that training, in addition to all other compensation to which he is entitled, be paid a bonus in an amount not to exceed $3,000.

(b) The Secretary of the Navy shall make an annual report to the House and Senate Armed Services Committees containing data to monitor the effectiveness of the bonus authorized by subsection (a) of this section.

(c) The provisions of this section shall be effective only in the case of officers who, on or before September 30, 1981, have been accepted for training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

(Added Pub. L. 94-356, § 3, July 12, 1976, 90 Stat. 901.)

EFFECTIVE DATE

Section effective Aug. 1, 1976, see section 5 of Pub. L. 94-356, set out as an Effective Date of 1976 Amendment note under section 312 of this title.

§ 312c. Special pay: nuclear career annual incentive bonus

(a) Under regulations prescribed by the Secretary of the Navy, an officer of the naval service who—

(1) is entitled to basic pay;

(2) is not above the pay grade O-6;

(3) has completed his initial obligated active service as an officer, but has completed less than twenty-six years of commissioned service;

(4) has, as a commissioned officer, successfully completed training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; and

(5) has the current technical qualifications for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants;

may, in addition to all other compensation to which he is entitled, be paid an annual bonus in an amount not to exceed $4,000 for each nuclear service year beginning after September 30, 1975, and ending before October 1, 1981. In order to be eligible for an annual bonus for any nuclear service year in accordance with this subsection, an otherwise qualified officer must have been on active duty on the last day of that nuclear service year. The amount of the annual bonus to which an officer would otherwise be entitled for a nuclear service year in accordance with this subsection shall be reduced on a pro rata basis for each day of that nuclear service year on which he was not on active duty; was not qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; was performing obligated service as the result of an active-service agreement executed under section 312 of this title; or was entitled to receive aviation career incentive pay in accordance with section 301a of this title: *Provided*, That—

(1) in the case of an officer with more than ten, but not more than eighteen, years of commissioned service, the amount of that annual bonus shall be further reduced on a pro rata basis for any other day or days in that nuclear service year which, when added to the immediately preceding days in and before that nuclear service year, total more than three consecutive years in an assignment other than an assignment to duty on a naval vessel; duty with a nuclear ship operational command staff; duty directly involving the training of others leading to their qualification for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; or duty in connection with a nuclear propulsion examining board;

(2) in the case of an officer with more than eighteen, but not more than twenty-five, years of commissioned service, the amount of that annual bonus shall be further reduced on a pro rata basis for any other day or days in that nuclear service year on which he was not in an assignment involving the direct supervision, operation, or maintenance of naval nuclear propulsion plants, except that in the case of an officer who, during that nuclear service year, completed his eighteenth year of commissioned service, the amount of that annual bonus shall not be reduced for any day before the end of that eighteenth year which would have been creditable for determining the amount of the annual bonus at the end of that nuclear service year for an officer with more than ten, but not more than eighteen, years of commissioned service; and

(3) in the case of an officer with more than twenty-five, but not more than twenty-six, years of commissioned service, the amount of that annual bonus shall be further reduced on a pro rata basis for any other day or days in that nuclear service year on which he was not in an assignment with duties involving the direct supervision, operation, or maintenance of naval nuclear propulsion plants, and for every day in that nuclear service year after the end of his twenty-fifth year of commissioned service.

(b) Under regulations prescribed by the Secretary of the Navy, an officer of the naval service who—

(1) is entitled to basic pay;

(2) is not above the pay grade O-6;

(3) has, as an enlisted member, received training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; and

(4) has the current technical qualifications for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants;

may, in addition to all other compensation to which he is entitled, be paid an annual bonus in an amount not to exceed $2,400 for each nuclear service year beginning after September 30, 1975, and ending before October 1, 1981. In order to be eligible for an annual bonus for any nuclear service year in accordance with this subsection, an otherwise qualified officer must have been on active duty on the last day of that nuclear service year. The amount of the annual bonus to which an officer would otherwise be entitled in accordance with this subsection shall be reduced on a pro rata basis for each day of that nuclear service year on which he was not in an assignment involving the direct supervision, operation, or maintenance of naval nuclear propulsion plants; was performing obligated service as the result of an active service agreement executed under section 312 of this title; or was entitled to receive aviation career incentive pay in accordance with section 301a of this title.

(c) Under regulations prescribed by the Secretary of the Navy, an officer of the naval service

who is not on active duty on the last day of a nuclear service year or who, on or before the last day of a nuclear service year, loses his technical qualifications or advances from the pay grade of O–6 to a higher pay grade may be paid a bonus in accordance with subsection (a) or (b) of this section on a pro rata basis, if otherwise qualified, unless termination of active duty or loss of technical qualifications was voluntary or was the result of his own misconduct.

(d) The Secretary of the Navy shall make an annual report to the House and Senate Armed Services Committees containing data to monitor the effectiveness of the bonuses authorized by subsections (a) and (b) of this section.

(e) For the purposes of this section, a "nuclear service year" is the one-year period from October 1, 1975, through September 30, 1976, or any fiscal year beginning after September 30, 1976, and before October 1, 1981.

(Added Pub. L. 94–356, § 3, July 12, 1976, 90 Stat. 901.)

EFFECTIVE DATE

Section effective Oct. 1, 1975, see section 5 of Pub. L. 94–356, set out as an Effective Date of 1976 Amendment note under section 312 of this title.

§ 313. Special pay: medical officers who execute active duty agreements

(a) Under regulations prescribed by the Secretary of Defense or by the Secretary of Health, Education, and Welfare, as appropriate, and approved by the President, an officer of the Army or Navy in the Medical Corps, an officer of the Air Force who is designated as a medical officer, or a medical officer of the Public Health Service, who—

(1) is below the pay grade of O–7;

(2) is designated as being qualified in a critical specialty by the Secretary concerned;

(3) is determined by a board composed of officers in the medical profession under criteria prescribed by the Secretary concerned to be qualified to enter into an active duty agreement for a specified number of years;

(4) is not serving an initial active duty obligation of four years or less or is not serving the first four years of an initial active duty obligation of more than four years;

(5) is not undergoing intern or initial residency training; and

(6) executes a written active duty agreement under which he will receive incentive pay for completing a specified number of years of continuous active duty subsequent to executing such an agreement;

may, upon acceptance of the written agreement by the Secretary concerned, or his designee, and in addition to any other pay or allowances to which he is entitled, be paid an amount not to exceed $13,500 for each year of the active duty agreement. Upon acceptance of the agreement by the Secretary concerned, or his designee, and subject to subsections (b) and (c) of this section, the total amount payable becomes fixed and may be paid in annual, semiannual, or monthly installments, or in a lump sum after completion of the period of active duty specified in the agreement, as prescribed by the Secretary concerned.

(b) Under regulations prescribed by the Secretary of Defense, the Secretary concerned, or his designee, may terminate, at any time, an officer's entitlement to the special pay authorized by this section. In that event, the officer is entitled to be paid only for the fractional part of the period of active duty that he served, and he may be required to refund any amount he received in excess of that entitlement.

(c) Under regulations prescribed by the Secretary of Defense or by the Secretary of Health, Education, and Welfare, as appropriate, an officer who has received payment under this section and who voluntarily, or because of his misconduct, fails to complete the total number of years of active duty specified in the written agreement shall be required to refund the amount received that exceeds his entitlement under those regulations. If an officer has received less incentive pay than he is entitled to under those regulations at the time of his separation from active duty, he shall be entitled to receive the additional amount due him.

(d) This section does not alter or modify any other service obligation of an officer. Completion of the agreed period of active duty, or other termination of an agreement, under this section does not entitle an officer to be separated from the service, if he has any other service obligation.

(e) The Secretary of Defense and the Secretary of Health, Education, and Welfare shall each submit a written report each year to the Committees on Armed Services of the Senate and House of Representatives regarding the operation of the special pay program authorized by this section. The report shall be on a fiscal year basis and shall contain—

(1) a review of the program for the fiscal year in which the report is submitted; and

(2) the plan for the program for the succeeding fiscal year.

This report shall be submitted not later than July 31 of each year, beginning in 1975.

(Added Pub. L. 93–274, § 1(4), May 6, 1974, 88 Stat. 95, and amended Pub. L. 94–273, § 43, Apr. 21, 1976, 90 Stat. 381.)

AMENDMENTS

1976—Subsec. (e). Pub. L. 94–273 substituted "July 31" for "April 30".

EFFECTIVE AND TERMINATION DATES

Section effective June 1, 1974, and to expire on September 30, 1977, see section 2 of Pub. L. 93–274, set out as an Effective and Termination Dates of 1974 Amendment note under section 302 of this title.

CHAPTER 7—ALLOWANCES

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AMENDMENTS

1973—Pub. L. 93-213, § 1(2), Dec. 28, 1973, 87 Stat. 910, added item 411b.

Pub. L. 93-170, § 1(2), Nov. 29, 1973, 87 Stat. 689, substituted "overhauling or inactivating" for "overhauling" in item 406b.

1971—Pub. L. 92-129, title II, § 205(b), Sept. 28, 1971, 85 Stat. 359, added item 428.

1970—Pub. L. 91-210, § 1(2), Mar. 13, 1970, 84 Stat. 53, added item 406b.

1968—Pub. L. 90-377, § 9, July 5, 1968, 82 Stat. 288, struck out item 426: "Prisoners in naval confinement facilities".

1967—Pub. L. 90-207, § 9(2), Dec. 16, 1967, 81 Stat. 655, inserted item 411a.

1965—Pub. L. 89-26, § 1(2), May 22, 1965, 79 Stat. 117. inserted item 405a.

1964—Pub. L. 88-647, title II, § 202(6), Oct. 13, 1964, 78 Stat. 1071, substituted "Cadets and midshipmen" for "Cadets, midshipmen, and naval officer candidates" in item 422.

1963—Pub. L. 88-236, § 1(2), Dec. 23, 1963, 77 Stat. 476, inserted item 406a.

Pub. L. 88-132, § 11(2), Oct. 2, 1963, 77 Stat. 217, added item 427.

§ 401. Definitions

In this chapter, "dependent", with respect to a member of a uniformed service, means—

(1) his spouse;

(2) his unmarried child (including any of the following categories of children if such child is in fact dependent on the member: a stepchild; an adopted child; or an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member) who either—

(A) is under 21 years of age; or

(B) is incapable of self-support because of a mental or physical incapacity, and in fact dependent on the member for over one-half of his support; and

(3) his parent (including a stepparent or parent by adoption, and any person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least five years before the member became 21 years of age) who is in fact dependent on the member for over one-half of his support; however, the dependency of such a parent is determined on the basis of an affidavit submitted by the parent, and any other evidence required under regulations prescribed by the Secretary concerned, and he is not considered a dependent of the member claiming the dependence unless—

(A) the member has provided over one-half of his support for the period prescribed by the Secretary concerned; or

(B) due to changed circumstances arising after the member enters on active duty, he becomes in fact dependent on the member for over one-half of his support.

For the purposes of this section, the relationship between a stepparent and his stepchild is terminated by the stepparent's divorce from the parent by blood.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 469; Pub. L. 93-64, title I, §§ 103, 104, July 9, 1973, 87 Stat. 148.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
401	37:231(g) (less last proviso of last sentence).	Oct. 12, 1949, ch. 681, § 102(g) (less last proviso of last sentence), 63 Stat. 804; Sept. 8, 1950, ch. 922, § 1, 64 Stat. 794; Mar. 23, 1953, ch. 8 (as applicable to § 102(g)), 67 Stat. 6; June 30, 1955, ch. 250, § 103 (as applicable to § 102(g)), 69 Stat. 224; Mar. 23, 1959, Pub. L. 86-4, § 3 (as applicable to § 102(g)), 73 Stat. 13.

The words "lawful", "at all times and in all places", "except as hereinafter limited in this subsection", and "in addition to those persons otherwise defined as dependents in this subsection" are omitted as surplusage. In clause (1), the word "spouse" is substituted for words "wife" and "husband". Clause (2) is substituted for the 16th through 24th words of the first sentence of section 231(g) of existing title 37 and the third sentence (less last proviso) of section 231(g) of existing title 37. Clause (3) is substituted for the second sentence of section 231(g) of existing title 37 and the last sentence (less provisos) of section 231(g) of existing

[1] So in original. Does not conform to section catchline.

title 37. The second sentence is substituted for the last proviso of the third sentence of section 231(g) of existing title 37. The last sentence is substituted for the first proviso of the last sentence of section 231(g) of existing title 37.

AMENDMENTS

1973—Cl. (2). Pub. L. 93–64, § 103(1), in revising cl. (1) of first sentence, substituted "unmarried child" for "unmarried legitimate child" and defined dependent to include an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member.

Cl. (3). Pub. L. 93–64, § 104, in revising cl. (3) of first sentence, substituted "five years before the member became 21 years" for "five years before he became 21 years", struck out requirement of actual residence of parent in the member's household, and added provision respecting determination of dependency of parent, including items (A) and (B), formerly contained in former section 2201 of Appendix to Title 50, War and National Defense.

Closing text. Pub. L. 93–64, § 103(2), struck out second sentence, following cl. (3) of first sentence, stating that a person is not a dependent of a female member unless he is in fact dependent on her for over one-half of his support.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 206 of Pub. L. 93–64 provided that: "This Act [enacting section 1173 of Title 10, Armed Forces, amending sections 302, 302a, 303, 308a(a), (c), 401, and 403 of this title, and repealing sections 2210 to 2212 of Title 50, Appendix, War and National Defense] shall become effective July 1, 1973."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89–670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

The Environmental Science Services Administration in the Department of Commerce, including the offices of the Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

In order to implement the provisions of Reorganization Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, the following organizational names appearing in chapter IX of subtitle B of Title 15, Code of Federal Regulations, which covers the administration of the National Oceanic and Atmospheric Administration, were changed by order of the Acting Associate Administrator, 35 F.R. 19249, Dec. 19, 1970, as follows: Environmental Science Services Administration to National Oceanic and Atmospheric Administration (ESSA to NOAA); Coast and Geodetic Survey to National Ocean Survey; and Weather Bureau to National Weather Service.

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 2002.

§ 402. Basic allowance for subsistence

(a) Except as otherwise provided by law, each member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for subsistence as set forth in this section.

(b) An enlisted member is entitled to the basic allowance for subsistence, on a daily basis, of one of the following types—

(1) when rations in kind are not available;

(2) when permission to mess separately is granted; and

(3) when assigned to duty under emergency conditions where no messing facilities of the United States are available.

The allowance to an enlisted member, when authorized, may be paid in advance for a period of not more than three months. An enlisted member is entitled to the allowance while on an authorized leave of absence or while confined to a hospital, but not while being subsisted at the expense of the United States. The allowance for an enlisted member who is authorized to receive the basic allowance for subsistence under this subsection is at the rate prescribed in accordance with section 1009 of this title. Unless he is entitled to basic pay under chapter 3 of this title, an enlisted member of a reserve component of a uniformed service, or of the National Guard, is entitled, in the discretion of the Secretary concerned, to rations in kind, or a part thereof, when the instruction or duty periods, described in section 206(a) of this title, total at least eight hours in a calendar day.

(c) An officer of a uniformed service who is entitled to basic pay is, at all times, entitled to the basic allowances for subsistence at the monthly rate prescribed in accordance with section 1009 of this title. An aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard is entitled to the same basic allowance for subsistence as is provided for an officer of the Navy, Air Force, Marine Corps, or Coast Guard, respectively.

(d) Under regulations and in areas prescribed by the Secretary of Defense, an enlisted member who is granted permission to mess separately, and whose duties require him to buy at least one meal from other than a messing facility of the United States, is entitled to not more than the pro rata allowance authorized for each such meal for an enlisted member when rations in kind are not available.

(e) The President may prescribe regulations for the administration of this section.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 89–444, § 2(2), June 6, 1966, 80 Stat. 198; Pub.

L. 93-419, § 3(1)-(5), Sept. 19, 1974, 88 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
402(a)	37:251(a) (1st sentence).	Oct. 12, 1949, ch. 681, § 301, 63 Stat. 812; May 19, 1952, ch. 310, § 1(d), 66 Stat. 80; Aug. 10, 1956, ch. 1041, § 20(b), 70A Stat. 627; Sept. 2, 1958, Pub. L. 85-861, § 10, 72 Stat. 1556.
402(b)	37:251(a) (2d and last sentences).	
	37:251(b).	
	37:251(c).	
	37:251a.	Aug. 1, 1953, ch. 305, § 617, 67 Stat. 352.
	37:301(a) (45 words before proviso).	Oct. 12, 1949, ch. 681, § 501(a) (45 words before proviso), (e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay), 63 Stat. 825, 827; July 9, 1952, ch. 608, § 244, 66 Stat. 494; June 30, 1960, Pub. L. 86-559, § 8, 74 Stat. 282.
	37:301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay).	
402(c)	37:251(a) (less 1st, 2d, and last sentences).	
402(d)	37:251(e).	
402(e)	37:251(f).	
402(f)	37:251(d).	

In subsection (a), the words "in the amount set forth in subsection (d)" are substituted for the words "in such amounts . . . as are provided in this section".

In subsection (b), the words "on a daily basis" are substituted for the last sentence of section 251(a) of existing title 37. The words "United States" are substituted for the word "Government", in the 2d sentence of section 251(a) of existing title 37, section 251(b) of existing title 37, and section 251(e) of existing title 37. The word "confined" is substituted for the word "sick" for clarity. The last 16 words of the third sentence are substituted for section 251(b) (proviso) of existing title 37. The fourth sentence is substituted for section 251(a) of existing title 37. The last sentence is substituted for section 301(a) (45 words before proviso) of existing title 37 and section 301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay). In that sentence, the words "of a reserve component of a uniformed service, or of the National Guard" are substituted for the enumeration of the organizations concerned.

In subsection (c), the words "who are entitled to basic pay" are inserted to reflect the 1st sentence of section 251(a) of existing title 37.

In subsection (d), the reference in section 251(a) of existing title 37 to the allowance of $1.05 per day for enlisted members granted permission to mess separately is omitted as superseded by section 251a.

In subsection (e), the words "Effective April 15, 1955," are omitted as executed. The words "United States" are substituted for the word "Government". The words "messing facilities" are substituted for the word "messes" to conform to subsections (b) and (d).

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-419, § 3(1), struck out "this section or by another" following "otherwise provided by" and substituted "as set forth in this section" for "in the amount set forth in subsection (d) of this section".

Subsec. (b). Pub. L. 93-419, § 3(2), substituted provisions for allowance for enlisted members authorized to receive basic allowance for subsistence under this subsection by reference to section 1009 of this title for provisions for allowance for enlisted members on leave or were authorized to mess separately at an amount equal to the cost of ration to be determined by the Secretary of Defense.

Subsec. (c). Pub. L. 93-419, § 3(3), added reference to section 1009 of this title in provisions relating to the amount of basic allowance for subsistence.

Subsec. (d). Pub. L. 93-419, § 3(4), (5), redesignated former subsec. (e) as (d). Former subsec. (d) relating to basic allowance for subsistence for members of the uniformed services was repealed.

Subsec. (e). Pub. L. 93-419, § 3(5), redesignated former subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 93-419, § 3(5), redesignated former subsec. (f) as (e).

1966—Subsec. (c). Pub. L. 89-444 extended to aviation cadets of the Coast Guard the entitlement to the same basic allowance for subsistence as is provided for an officer of the Coast Guard.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-419 effective Sept. 19, 1974, see section 9 of Pub. L. 93-419, set out as an Effective Date note under section 1009 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

ADJUSTMENT OF ALLOWANCES FOR SUBSISTENCE

For adjustment of subsistence allowances effective Oct. 1, 1976, see Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under section 1009 of this title.

REGULATIONS RELATING TO SUBSISTENCE ALLOWANCE

Regulations relating to basic allowance for subsistence, see Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

EXECUTIVE ORDER No. 10119

Ex. Ord. No. 10119, Mar. 30, 1950, 15 F.R. 1767, as amended by 1953 Reorg. Plan No. 1, §§ 5, 8, Apr. 11, 1953, 18 F.R. 2053; Ex. Ord. No. 10605, Apr. 22, 1955, 20 F.R. 2747, which related to regulations governing basic allowance for subsistence, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Aviation cadets, allowances, pensions, gratuities, and other benefits, see section 6912 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 419, 1003, 1009 of this title; title 10 section 6912; title 14 section 372; title 31 section 698a; title 32 section 107; title 38 section 2024.

§ 403. Basic allowance for quarters

(a) Except as otherwise provided by law, a member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for quarters at the monthly rates prescribed in accordance with section 1009 of this title, according to the pay grade in which he is assigned or distributed for basic pay purposes.

(b) Except as otherwise provided by law, a member of a uniformed service who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to his grade, rank, or rating and adequate for himself, and his dependents, if with dependents, is not entitled to a basic allowance for quarters. However, except as provided by regulations prescribed under subsection (j) of this section, a commissioned officer

without dependents who is in a pay grade above pay grade O–3 and who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to his grade or rank and adequate for himself, may elect not to occupy those quarters and instead to receive the basic allowance for quarters prescribed for his pay grade by this section.

(c) A member of a uniformed service without dependents is not entitled to a basic allowance for quarters while he is on field duty, unless his commanding officer certifies that the member was necessarily required to procure quarters at his expense, or while he is on sea duty. For the purposes of this subsection, duty for a period of less than three months is not considered to be field duty or sea duty.

(d) A member of a uniformed service who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service may not be denied the basic allowance for quarters if, because of orders of competent authority, his dependents are prevented from occupying those quarters.

(e) Notwithstanding any other law (including those restricting the occupancy of housing facilities under the jurisdiction of a department or agency of the United States by members, and their dependents, of the armed forces above specified grades, or by members, and their dependents of the Environmental Science Services Administration and the Public Health Service), a member of a uniformed service, and his dependents, may be accepted as tenants in, and may occupy on a rental basis, any of those housing facilities, other than public quarters constructed or designated for assignment to and occupancy without charge by such a member, and his dependents, if any. Such a member may not, because of his occupancy under this subsection, be deprived of any money allowance to which he is otherwise entitled for the rental of quarters.

(f) A member of a uniformed service without dependents who is in pay grade E–4 (four or more years' service), or above, is entitled to a basic allowance for quarters while he is in a travel or leave status between permanent duty stations, including time granted as delay enroute or proceed time, when he is not assigned to quarters of the United States.

(g) An aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard is entitled to the same basic allowance for quarters as a member of the uniformed services in pay grade E–4.

(h) The Secretary concerned, or his designee, may make any determination necessary to administer this section with regard to enlisted members, including determinations of dependency and relationship, and may, when warranted by the circumstances, reconsider and change or modify any such determination. This authority may be redelegated by the Secretary concerned or his designee. Any determination made under this section with regard to enlisted members is final and is not subject to review by any accounting officer of the United States or a court, unless there is fraud or gross negligence.

(i) Notwithstanding any other provision of law, the basic allowance for quarters to which an enlisted member may be entitled as a member with dependents shall not, for such period as the Secretary concerned may prescribe, be contingent on the right of such member to receive pay.

(j) The President may prescribe regulations for the administration of this section, including definitions of the words "field duty" and "sea duty".

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 88–132, § 10, Oct. 2, 1963, 77 Stat. 216; Pub. L. 89–718, §§ 49(a)(1), 54, Nov. 2, 1966, 80 Stat. 1121, 1122; Pub. L. 90–207, § 1(3), Dec. 16, 1967, 81 Stat. 651; Pub. L. 92–129, title II, § 204, Sept. 28, 1971, 85 Stat. 358; Pub. L. 93–64, title I, § 105, July 9, 1973, 87 Stat. 148; Pub. L. 93–419, § 3(6), Sept. 19, 1974, 88 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
403(a)	37:252(a).	Oct. 12, 1949, ch. 681, § 302(a)–(f), 63 Stat. 812; May 19, 1952, ch. 310, § 1(b), (c), 66 Stat. 79; May 20, 1958, Pub. L. 85–422, § 1(9), 72 Stat. 127.
	37:252(f).	
403(b)	37:252(b).	
403(c)	37:252(c).	
403(d)	37:252(d).	
403(e)	37:111a.	July 2, 1945, ch. 227, 59 Stat. 316.
403(f)	37:320.	June 29, 1950, ch. 405, § 102, 64 Stat. 288.
403(g)	37:252(e).	

In subsection (a), the words "at the following monthly rates" are substituted for the words "in such amount and under such circumstances as are provided in this section". Section 252(f) (words before table) of existing title 37 is omitted as surplusage.

In subsections (b), (d), and (e), the words "United States" are substituted for the word "Government".

In subsection (c), the words "a period" are substituted for the words "temporary periods".

In subsection (e), the words "member" and "members" are substituted for the word "personnel".

In subsection (f), the words "may be used" are substituted for the words "shall be available". The words "for any periods after June 29, 1950," are omitted as executed. The words "(as defined in sections 231(g) and 252 of this title)" are omitted as covered by section 401 of this revised title.

In subsection (g), the word "including" is substituted for the words "and such regulations shall include, but not be limited to".

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–419 substituted reference to section 1009 of this title for provisions setting out in tables the rates of basic allowance for quarters for members of uniformed services.

1973—Subsec. (a). Pub. L. 93–64, § 105(1), (2), substituted in the table provisions reading:

"E–4	$81.60	$121.50
E–3	72.30	105.00
E–2	63.90	105.00
E–1	60.00	105.00"

for former provisions reading:

"E–4 (over 4 years' service)	81.60	121.50
E–4 (4 years' or less service)	45.00	45.00
E–3	45.00	45.00
E–2	45.00	45.00
E–1	45.00	45.00"

and deleted sentence reading "A member in pay grade E–4 (less than four years' service), E–3, E–2, or E–1 is considered at all times to be without dependents."

Subsec. (b). Pub. L. 93–64, § 105(3), substituted in second sentence reference to subsection "(j)" for "(g)".

Subsec. (g). Pub. L. 93-64, § 105(4), added subsec. (g). Former subsec. (g) redesignated (j).

Subsecs. (h), (i). Pub. L. 93-64, § 105(4), added subsecs. (h) and (i).

Subsec. (j). Pub. L. 93-64, § 105(5), redesignated former subsec. (g) as (j).

1971—Subsec. (a). Pub. L. 92-129 increased the quarters allowances as shown on the table. Prior to this amendment the table was set out as follows:

"Pay grade	Without dependents	With dependents
O-10	$160.20	$201.00
O-9	160.20	201.00
O-8	160.20	201.00
O-7	160.20	201.00
O-6	140.10	170.10
O-5	130.20	157.50
O-4	120.00	145.05
O-3	105.00	130.05
O-2	95.10	120.00
O-1	85.20	110.10
W-4	120.00	145.05
W-3	105.00	130.05
W-2	95.10	120.00
W-1	85.20	110.10
E-9	85.20	120.00
E-8	85.20	120.00
E-7	75.00	114.90
E-6	70.20	110.10
E-5	70.20	105.00
E-4 (over 4 years' service)	70.20	105.00
E-4 (4 years' or less service)	45.00	45.00
E-3	45.00	45.00
E-2	45.00	45.00
E-1	45.00	45.00"

1967—Subsec. (f). Pub. L. 90-207 substituted provisions authorizing the payment of a basic allowance for quarters to a member of a uniformed service without dependents who is in pay grade E-4 (four or more years' service) or above for the period he is in a travel or leave status between permanent duty stations for provisions which precluded the payment of a basic allowance for quarters to a member of a uniformed service without dependents while in a permanent change of station status.

1966—Subsec. (a). Pub. L. 89-718 increased the quarters allowances as shown on the table. Prior to this amendment the table was set out as follows:

"Pay grade	With dependents	Without dependents
O-10	$171.00	$136.80
O-9	171.00	136.80
O-8	171.00	136.80
O-7	171.00	136.80
O-6	136.80	119.70
O-5	136.80	102.60
O-4	119.70	94.20
O-3	102.60	85.50
O-2	94.20	77.10
O-1	85.50	68.40
W-4	119.70	94.20
W-3	102.60	85.50
W-2	94.20	77.10
W-1	85.50	68.40
E-9	67.50	45.00
E-8	67.50	45.00
E-7	67.50	45.00
E-6	67.50	45.00
E-5	67.50	45.00
E-4 (7 or more years' service creditable under section 205)	67.50	45.00
E-4 (less than 7 years' service creditable under section 205)	45.00	45.00
E-3	45.00	45.00
E-2	45.00	45.00
E-1	45.00	45.00"

Subsec. (e). Pub. L. 89-718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

1963—Subsec. (b). Pub. L. 88-132 authorized election by certain officers without dependents not to occupy government quarters.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-419 effective Sept. 19, 1974, see section 9 of Pub. L. 93-419, set out as an Effective Date note under section 1009 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-64 effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as an Effective Date of 1973 Amendment note under section 401 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-129 effective Oct. 1, 1971, see section 209 of Pub. L. 92-129, set out as an Effective Date note under section 302a of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-207 effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as an Effective Date of 1967 Amendment note under section 203 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

ADJUSTMENT OF ALLOWANCES FOR QUARTERS

For adjustment of quarters allowances effective Oct. 1, 1976, see Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under section 1009 of this title.

PAY CONTINUATION

Amendment of this section by Pub. L. 92-129 not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note captioned Pay Continuation Provisions under section 203 of this title.

1962 INCREASE IN QUARTERS ALLOWANCE

Act Oct. 12, 1949, ch. 681, title III, § 302(f), 63 Stat. 812, as amended by Pub. L. 87-531, § 1, July 10, 1962, 76 Stat. 152, which had provided for increases in quarters allowances without amending subsec. (a) of this section through the device of effecting an amendment to section 302(f) of the Career Compensation Act of 1949, was repealed by section 75(5) of Pub. L. 89-718 except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966. The substance of these quarters allowance increases were incorporated into the text of this section through the amendment of subsec. (a) of this section by Pub. L. 89-718.

ENLISTED MEMBERS WITHOUT DEPENDENTS

Act Oct. 12, 1949, ch. 681, title III, 302(g), 63 Stat. 812, which provided that enlisted members without dependents shall be entitled to a basic allowance for quarters at the rate of $51.30 per month, was repealed

by Pub. L. 87-531, § 2, July 10, 1962, 76 Stat. 152. Laws effective after Jan. 9, 1962, that are inconsistent with Pub. L. 87-649, to be considered as superseding Pub. L. 87-649 to the extent of the inconsistency, see section 12(a) of Pub. L. 87-649, set out as a note preceding section 101 of this title.

AUTHORITY OF SECRETARIES WITH RESPECT TO PAYMENT OF QUARTERS ALLOWANCES

Pub. L. 87-531, § 5, July 10, 1962, 76 Stat. 153, provided that: "The Secretaries of the departments concerned shall have the same authority with respect to payments of quarters allowances to enlisted members of the uniformed services to pay grades E-4 (over 4 years' service) through E-9 that they have with respect to enlisted members of the uniformed services in pay grades E-1, E-2, E-3, and E-4 (4 years' or less service) under sections 10 and 11 of the Dependents Assistance Act of 1950 (50 App. U.S.C. 2210, 2211)."

REGULATIONS RELATING TO QUARTERS ALLOWANCE

Regulations relating to basic allowance for quarters, see Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

EXECUTIVE ORDER NO. 10204

Ex. Ord. No. 10204, Jan. 16, 1951, 16 F.R. 417, as amended by Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631; Ex. Ord. No. 11146, Mar. 13, 1964, 29 F.R. 3417, which related to regulations governing basic allowances for quarters, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 407, 419, 1003, 1009 of this title; title 32 section 107; title 50 App. section 454.

§ 404. Travel and transportation allowances: general

(a) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel performed or to be performed under orders, without regard to the comparative costs of the various modes of transportation—

(1) upon a change of permanent station, or otherwise, or when away from his designated post of duty regardless of the length of time he is away from that post;

(2) upon appointment, call to active duty, enlistment, or induction, from his home or from the place from which called or ordered to active duty to his first station;

(3) upon separation from the service, placement on the temporary disability retired list, release from active duty, or retirement, from his last duty station to his home or the place from which he was called or ordered to active duty, whether or not he is or will be a member of a uniformed service at the time the travel is or will be performed; and

(4) when away from home to perform duty, including duty by a member of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, in his status as a member of the National Guard, for which he is entitled to, or has waived, pay under this title.

(b) The Secretaries concerned may prescribe—

(1) the conditions under which travel and transportation allowances are authorized, including advance payments thereof; and

(2) the allowances for the kinds of travel, but not more than the amounts authorized in this section.

(c) Under uniform regulations prescribed by the Secretaries concerned, a member who—

(1) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10; or

(2) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein or more than 90 days, is discharged with severance pay or is involuntarily released from active duty with readjustment pay;

may, not later than one year from the date he is so retired, placed on that list, discharged, or released, except as prescribed in regulations by the Secretaries concerned, select his home for the purposes of the travel and transportation allowances authorized by subsection (a) of this section.

(d) The travel and transportation allowances authorized for each kind of travel may not be more than one of the following—

(1) transportation in kind, reimbursement therefor, or a monetary allowance in place of the cost of transportation at a rate that is not more than 7 cents a mile based on distances established, over the shortest usually traveled route, under mileage tables prepared under the direction of the Secretary of the Army;

(2) transportation in kind, reimbursement therefor, or a monetary allowance as provided by clause (1) of this subsection plus a per diem in place of subsistence in an amount sufficient to meet actual and necessary expenses, but in no event more than $35 a day; or

(3) a mileage allowance of not more than 10 cents a mile based on distances established under clause (1) of this subsection.

Under regulations prescribed by the Secretaries concerned, when either travel is to an area designated as a high cost area in those regulations or the per diem of clause (2) of this subsection is less than the amount of the actual and necessary expenses required by the unusual circumstances of the travel assignment, reimbursement may be authorized for actual and necessary expenses, but not for more than $50 for each day in a travel status.

(e) A member who is on duty with, or is undergoing training for, the Military Airlift Command, the Marine Corps Transport Squadrons, the Fleet Tactical Support Squadrons, or the Naval Aircraft Ferrying Squadrons, and who is away from his permanent station, may be paid a per diem in lieu of subsistence in an amount not more than the amount to which he would be entitled if he were performing travel in connection with temporary duty without, in either case, the issuance of orders for specific travel.

(f) The travel and transportation allowances authorized under this section may be paid on the member's separation from the service or re-

lease from active duty, whether or not he performs the travel involved.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 472; Pub. L. 89-680, § 1(1), Oct. 15, 1966, 80 Stat. 957; Pub. L. 89-718, §§ 55, 56, Nov. 2, 1966, 80 Stat. 1122, 1123; Pub. L. 90-168, § 3, Dec. 1, 1967, 81 Stat. 525; Pub. L. 91-183, Dec. 30, 1969, 83 Stat. 840; Pub. L. 94-296, § 1, May 29, 1976, 90 Stat. 584.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
404(a).....	37:253(a) (1st and 3d sentences).	Oct. 12, 1949, ch. 681, § 303(a), (d), 63 Stat.
404(b).....	37:253(a) (4th sentence).	813, 815; Mar. 31,
404(c).....	37:253(a) (2d sentence).	1955, ch. 20, § 2(11), 69
404(d).....	37:253(a) (last sentence, less proviso).	Stat. 21; Aug. 11, 1955, ch. 806, § 1, 69 Stat.
404(e).....	37:253(d).	691; June 13, 1956, ch.
404(f).....	37:253(a) (proviso of last sentence).	383, 70 Stat. 275; July 12, 1960, Pub. L. 86-638, § 1, 74 Stat. 471.

In subsection (a), the words "that post" are substituted for the words "such designated posts of duty". In clauses (2) and (3), the words "called or" are inserted to conform to the second phrase of clause (2). The word "competent" is omitted as surplusage.

In subsection (b), the words "The Secretaries concerned" are substituted for the words "The respective Secretaries concerned" to conform to other subsections of the source statute.

In subsection (c)(1), the words "under chapter 61 of title 10" are inserted for clarity. In clause (2), the words "under any other law" are substituted for the words "for any other reason".

In subsection (d), the words "may not be more than one of the following" are substituted for the words "shall be limited to one of the following". The words "or to be established" and "existing" are omitted, since this section, being permanent law, is consistently applicable in the present and does not speak only as of the date of its enactment. The words "of the Army" are substituted for the words "Department of the Army" after the words "Chief of Finance" to conform to section 3036(a)(5) of title 10. The words "under clause (1) of this subsection" are substituted for the words "pursuant to existing law".

In subsection (e), the words "Fleet Logistic Air Wings" are substituted for the words "Fleet Logistics Support Unit" to reflect present terminology.

In subsection (f), the words "under this section" are substituted for the words "under conditions authorized herein". The words "on the member's" are inserted for clarity.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-296 in cl. (2) substituted "in an amount sufficient to meet actual and necessary expenses, but in no event more than $35 a day" for "of not more than $25 a day", and in material following cl. (3) added provisions relating to travel designated as travel to a high cost area by the prescribed regulations and increased the maximum reimbursement from $40 to $50.

1969—Pub. L. 91-183 increased from $16 to $25, the maximum per diem allowance, and from $30 to $40, the maximum per diem allowance in unusual circumstances.

1967—Subsec. (a). Pub. L. 90-168 added clause (4).

1966—Subsec. (c). Pub. L. 89-680 inserted into the authorization for selection of a home for the purposes of the travel and transportation allowances authorized by subsection (a) of this section provisions requiring selection not later than one year from the date of retirement, placement, discharge, or release, except as provided in regulations to be prescribed by the Secretaries concerned.

Subsec. (d). Pub. L. 89-718, § 55, struck out reference to the Chief of Finance of the Army in clause (1), substituted "subsection" for "section" and "$16" for "$12" in clause (2), substituted "subsection" for "section" in clause (3), and added provision authorizing reimbursement on an actual expenses basis where, due to unusual circumstances of a travel assignment, per diem reimbursement is not enough, but placing a limit of $30 for each day in a travel status.

Subsec. (e). Pub. L. 89-718, § 56, substituted "Military Airlift Command" for "Military Air Transport Service".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2 of Pub. L. 94-296 provided that: "The amendments made by this Act [amending this section] become effective on the first day of the first calendar month following the date of enactment [May 29, 1976]."

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-168 effective on the first day of the first calendar month following Dec. 1, 1967, see section 7 of Pub. L. 90-168, set out as an Effective Date of 1967 Amendment note under section 136 of Title 10, Armed Forces.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

1962 INCREASE IN PER DIEM RATES; REIMBURSEMENT FOR ACTUAL EXPENSES INCIDENT TO TRAVEL

The increase from $12 to $16 in the per diem allowance and the provision for reimbursement for actual expenses incident to travel up to $30 per day provided in the amendment of subsec. (d) of this section by Pub. L. 89-718 had already been put into effect by Pub. L. 87-500, §§ 1, 2, June 27, 1962, 76 Stat. 111, which although not amending subsec. (d) of this section, had raised the per diem allowance and provided for the reimbursement for actual expenses up to $30 per day through the device of effecting an amendment to section 303(a) of the Career Compensation Act of 1949, act Oct. 12, 1949, ch. 681, title III, 63 Stat. 813. Pub. L. 89-500 was repealed by section 75(3) of Pub. L. 89-718, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Regulations for administration of section, see section 411 of this title.

Travel and transportation allowances for reserves and members of National Guard who perform training or other duty without pay, see section 1002 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406, 406a, 406b, 410, 411, 411a, 411b, 419, 1002, 1003 of this title; title 5 section 4109.

§ 405. Travel and transportation allowances: per diem while on duty outside United States or in Hawaii or Alaska

Without regard to the monetary limitations of this title, the Secretaries concerned may authorize the payment of a per diem, considering all elements of the cost of living to members of the uniformed services under their jurisdiction and their dependents, including the cost of quarters, subsistence, and other necessary incidental expenses, to such a member who is on duty outside of the United States or in Hawaii or Alaska, whether or not he is in a travel

status. However, dependents may not be considered in determining the per diem allowance for a member in a travel status. A station housing allowance may be prescribed under this section without regard to costs other than housing costs and may consist of the difference between basic allowance for quarters and applicable housing cost. Housing cost and allowance may be disregarded in prescribing a station cost of living allowance under this section.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 473; Pub. L. 89-718, § 57, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 91-486, Oct. 22, 1970, 84 Stat. 1085.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
405	37:253(b).	Oct. 12, 1949, ch. 681, § 303(b), 63 Stat. 814.

The words "Secretaries concerned" are substituted for the words "Secretaries of the uniformed services" to conform to other subsections of the source statute. The words "outside the United States, or in Hawaii or Alaska" are substituted for the words "outside the continental United States or in Alaska" to conform to the definition of United States in section 101(1) of this revised title and to retain the coverage of the source statute.

AMENDMENTS

1970—Pub. L. 91-486 added provision authorizing a station housing allowance.

1966—Pub. L. 89-718 substituted "the" for "a" following "including".

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Regulations for administration of section, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 411, 419, 1003 of this title; title 5 section 4109; title 36 section 121.

§ 405a. Travel and transportation allowances: evacuation allowances

(a) Under regulations prescribed by the Secretaries concerned, when dependents of members of the uniformed services are ordered evacuated by competent authority, they may be authorized such allowances as the Secretary concerned determines necessary to offset the expenses incident to the evacuation. Allowances authorized by this section are in addition to those authorized by any other section of this title. For the purposes of this section, a dependent "ordered evacuated by competent authority" includes—

(1) a dependent who is present at or in the vicinity of the member's duty station when the evacuation of dependents is ordered by competent authority and who actually moved to an authorized safe haven designated by that authority, whether such safe haven is at or in the vicinity of the member's duty station or elsewhere;

(2) a dependent who established a household at or in the vicinity of the member's duty station but who is temporarily absent therefrom for any reason when evacuation of dependents is ordered by competent authority; and

(3) a dependent who was authorized to join the member and who departed from his former place of residence incident to joining the member but who, as a result of the evacuation of dependents, is diverted to a safe haven designated by competent authority or is authorized to travel to a place the dependent may designate, even though he was in the United States when the evacuation was ordered.

(b) Under regulations prescribed by the Secretaries concerned, each member whose dependents are covered by subsection (a) of this section is entitled to have one motor vehicle owned by him and for his personal use, or the use of the dependents, transported at the expense of the United States to a designated place for the use of the dependents. When the dependents are permitted to rejoin the member, the vehicle may be transported at the expense of the United States to his permanent duty station.

(Added Pub. L. 89-26, § 1(1), May 22, 1965, 79 Stat. 116, and amended Pub. L. 89-608, § 2, Sept. 30, 1966, 80 Stat. 851.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-608 struck out provision requiring that to qualify for allowances the evacuated dependents have been evacuated from places outside the United States to places inside the United States.

EFFECTIVE DATE

Section 2 of Pub. L. 89-26, as amended by section 1 of Pub. L. 89-608, Sept. 30, 1966, 80 Stat. 851; Pub. L. 92-176, Dec. 2, 1971, 85 Stat. 494, provided that: "This Act [enacting this section and amending sections 407, 411, and 1006 of this title] becomes effective on February 1, 1965."

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 407, 411, 419, 1003, 1006 of this title.

§ 406. Travel and transportation allowances: dependents; baggage and household effects

(a) A member of a uniformed service who is ordered to make a change of permanent station is entitled to transportation in kind for his dependents, to reimbursement therefor, or to a monetary allowance in place of that transportation in kind at a rate to be prescribed, but not more than the rate authorized under section 404(d) of this title.

(b) In connection with a change of temporary or permanent station, a member is entitled to transportation (including packing, crating, drayage, temporary storage, and unpacking) of baggage and household effects, or reimbursement therefor, within such weight allowances prescribed by the Secretaries concerned, with-

out regard to the comparative costs of the various modes of transportation.

(c) The allowances and transportation authorized by subsections (a) and (b) of this section are in addition to those authorized by sections 404 and 405 of this title and are—

(1) subject to such conditions and limitations;

(2) for such grades, ranks, and ratings; and

(3) to and from such places;

prescribed by the Secretaries concerned. Transportation of the household effects of a member may not be made by commercial air carrier at an estimated over-all cost that is more than the estimated over-all cost of the transportation thereof by other means, unless an appropriate transportation officer has certified in writing to his commanding officer that those household effects to be so transported are necessary for use in carrying out assigned duties, or are necessary to prevent undue hardship and other means of transportation will not fill those needs. However, not more than 1,000 pounds of unaccompanied baggage may be transported by commercial air carrier, without regard to the preceding sentence, under regulations prescribed under the authority of the Secretary of Defense.

(d) The nontemporary storage of baggage and household effects may be authorized in facilities of the United States, or in commercial facilities when it is considered to be more economical to the United States. However, the weight of baggage and household effects stored, plus the weight of the baggage and household effects transported, in connection with a change of station may not be more than the maximum weight limitations in regulations prescribed by the Secretaries concerned when it is not otherwise fixed by law. The nontemporary storage of baggage and household effects may not be authorized for a period longer than one year from the date the member concerned is separated from the service, retired, placed on the temporary disability retired list, discharged, or released from active duty, except as prescribed in regulations by the Secretaries concerned for a member who, on that date, or at any time during the one-year period following that date, is confined in a hospital, or is in its vicinity, undergoing medical treatment; or in the case of a member who—

(1) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10; or

(2) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than 90 days, is discharged with severance pay or is involuntarily released from active duty with readjustment pay.

Except in the case of a member who, on the date of his separation, discharge, or release, or at any time during the one-year period following that date, is confined in a hospital, or is in its vicinity, undergoing medical treatment, the cost of the storage, for the period that exceeds one year, shall be paid by the member.

(e) When orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of his dependents, baggage, and household effects, the Secretaries concerned may authorize the movement of the dependents, baggage, and household effects and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, as authorized under subsection (a) or (b) of this section. This subsection may be used only under unusual or emergency circumstances, including those in which—

(1) the member is performing duty at a place designated by the Secretary concerned as being within a zone from which dependents should be evacuated;

(2) orders which direct the member's travel in connection with temporary duty do not provide for return to the permanent station or do not specify or imply any limit to the period of absence from his permanent station; or

(3) the member is serving on permanent duty at a station outside the United States, in Hawaii or Alaska, or on sea duty.

(f) Under regulations prescribed by the Secretary concerned, transportation for dependents, baggage, and household effects of a member is authorized if he dies while entitled to basic pay under chapter 3 of this title.

(g) Under uniform regulations prescribed by the Secretaries concerned, a member who—

(1) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10; or

(2) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than 90 days, is discharged with severance pay or is involuntarily released from active duty with readjustment pay;

is, not later than one year from the date he is so retired, placed on that list, discharged, or released, except as prescribed in regulations by the Secretaries concerned, entitled to transportation for his dependents, baggage, and household effects to the home selected under section 404(c) of this title. In addition, baggage and household effects may be shipped to a location other than the home selected by the member. In any case in which the costs are in excess of those which would have been incurred if shipment had been made to his selected home, the member shall pay that excess cost. If a member authorized to select a home under section 404(c) of this title accrues that right or any entitlement under this subsection but dies before he exercises it, that right or entitlement accrues to and may be exercised by his surviving dependents, or his baggage and household effects may be shipped to the home of the person legally entitled thereto if there are no surviving dependents. However, in any case in which the costs are in excess of those which would have been incurred if shipment had been made to the member's selected home, the surviving dependents or the person legally entitled to the baggage and household effects, as the case may be, shall pay that excess cost.

(h) In the case of a member who is serving at a station outside the United States or in Hawaii or Alaska, if the Secretary concerned determines it to be in the best interests of the member or his dependents and the United States, he may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of his dependents, baggage, and household effects—

(1) authorize the movement of the member's dependents, baggage, and household effects at that station to an appropriate location in the United States or its possessions and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, as authorized under subsection (a) or (b) of this section; and

(2) authorize the transportation of one motor vehicle owned by the member and for his or his dependents' personal use to that location by means of transportation authorized under section 2634 of title 10.

If the member's baggage and household effects are in nontemporary storage under subsection (d) of this section, the Secretary concerned may authorize their movement to the location concerned and prescribe transportation in kind or reimbursement therefor, as authorized under subsection (b) of this section. For the purposes of this section, a member's unmarried child for whom the member received transportation in kind to his station outside the United States or in Hawaii or Alaska, reimbursement therefor, or a monetary allowance in place thereof and who became 21 years of age while the member was serving at that station shall be considered as a dependent of the member.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 473; Pub. L. 88-431, § 1(a), Aug. 14, 1964, 78 Stat. 439; Pub. L. 89-101, § 2, July 30, 1965, 79 Stat. 425; Pub. L. 89-680, § 1(2), (3), Oct. 15, 1966, 80 Stat. 957; Pub. L. 89-718, §§ 58, 59, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-623, § 3(6), Oct. 22, 1968, 82 Stat. 1314.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
406(a)	37:253(c) (1st sentence, less 1st 33 words, and less last 59 words).	Oct. 12, 1949, ch. 681, § 303(c), (1st through 3d, 9th, 11th, 13th through 16th and last, sentences), 63 Stat. 814; Mar. 31, 1955, ch. 20, § 2(12), (13), 69 Stat. 21, 22; Aug. 5, 1955, ch. 571, 69 Stat. 532; Aug. 11, 1955, ch. 806, § 2, 69 Stat. 691; July 12, 1960, Pub. L. 86-637, § 1(a), 74 Stat. 471; July 12, 1960, Pub. L. 86-638, § 2, 74 Stat. 471; Aug. 17, 1961, Pub. L. 87-140, 75 Stat. 341.
406(b)	37:253(c) (last 59 words of 1st sentence).	
406(c)	37:253(c) (1st 33 words of 1st sentence and 2d sentence).	
406(d)	37:253(c) (3d sentence).	
406(e)	37:253(c) (9th sentence).	
406(f)	37:253(c) (11th sentence).	
406(g)	37:253(c) (13th through 16th, and last, sentences).	

In subsection (b), the words "to and from such locations" are omitted as covered by subsection (c)(3).

In subsection (c), the 15 words preceding clause (1) of the first sentence are substituted for the 1st 7 words of the 1st sentence of section 253(c) of existing title 37. The 39th through 47th words of the 2d sentence of section 253(c) of existing title 37 are omitted as covered by section 411(a) of this revised title.

In subsection (d), the words "the weight of the baggage and household effects stored . . . may not be more than" are substituted for the words "in no instance shall the weight stored . . . exceed". The words "except as prescribed in regulations" are substituted for the words "except that a longer period may be authorized by regulations promulgated". The words "Secretaries concerned" are substituted for the words "respective Secretaries" to conform to other subsections of the source statute.

In subsection (f), the words "of a member" are inserted for clarity. The words "if he dies" are substituted for the words "upon the death of a member". The words "under chapter 3 of this title" are substituted for the reference to section 232(e) of title 37, since subsection (e) was redesignated as subsection (d) by section 2(2) of the Act of March 31, 1955, cited above.

In subsection (g), the words "under chapter 61 of title 10" are inserted for clarity. The words "under any other law" are substituted for the words "for any other reason". The words "In addition," are substituted for the word "Such", and the words "the member" are substituted for the word "him", for clarity. The words "section 404(c) of this title" are substituted for the words "subsection (a) of this section" to reflect the section of this revised title which restates that subsection.

AMENDMENTS

1968—Subsec. (d)(2). Pub. L. 90-623 substituted "90" for "ninety".

1966—Subsec. (b). Pub. L. 89-718, § 58(1), substituted "change of temporary or permanent station" for "temporary or permanent change of station".

Subsec. (d). Pub. L. 89-680, § 1(2), extended the authority permitting a one-year period for the nontemporary storage of baggage and household effects under regulations for members being separated from the service who are confined to a hospital or are in its vicinity undergoing medical treatment to include members who are being retired, placed on the temporary retired disability list, discharged, or released from active duty, and expanded coverage to include members retired or placed on the temporary disability retired list under chapter 61 of title 10, members retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than ninety days, discharged with severance pay or released involuntarily from active duty with readjustment pay, and added provisions for payment of cost of storage by the member concerned in certain cases.

Subsec. (g). Pub. L. 89-718, §§ 58(2), 59, inserted "is" before "placed" in clause (1) and substituted "member's" for "members' ".

Pub. L. 89-680, § 1(3), inserted into the authorization for transportation for dependents, baggage, and household effects to the home selected under section 404(c) of this title provisions limiting the entitlement to not later than one year from the date of retirement, placement on the list, discharge, or release, except as prescribed in regulations by the Secretaries concerned.

1965—Subsec. (h)(2). Pub. L. 89-101 substituted "by means of transportation authorized under section 2634 of title 10" for "on a vessel owned, leased, or chartered by the United States or by privately owned American shipping services".

1964—Subsec. (h). Pub. L. 88-431 added subsec. (h).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as an Effective Date of 1968 Amendment note under section

5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1965 AMENDMENT; REIMBURSEMENT OF EXPENSES

Amendment by Pub. L. 89-101 effective on May 1, 1965, and personal expenses for transportation of motor vehicles transported after Apr. 30, 1965, and before July 30, 1965 reimbursible, see section 3 of Pub. L. 89-101, set out as an Effective Date of 1965 Amendment note under section 2634 of Title 10, Armed Forces.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

MONETARY ALLOWANCE IN LIEU OF TRANSPORTATION OF HOUSEHOLD EFFECTS

Pub. L. 94-212, title VII, § 747, Feb. 9, 1976, 90 Stat. 176, provided that: "Appropriations available to the Department of Defense for providing transportation of household effects of members of the armed forces pursuant to section 406(b) of title 37, United States Code, shall be available hereafter to pay a monetary allowance in place of such transportation, to a member who, under regulations prescribed by the Secretary of the military department concerned, participates in a program designated by the Secretaries in which his baggage and household effects are moved by privately owned or rental vehicle. Such allowance shall not be limited to reimbursement for actual expenses and may be paid in advance of the transportation of said baggage and household effects. However, the monetary allowance shall be in an amount which will provide savings to the government when the total cost of such movement is compared with the cost which otherwise would have been incurred under section 406(b)."

FUNERAL TRANSPORTATION AND LIVING EXPENSE BENEFITS; VIETNAM CONFLICT

Pub. L. 93-257, Mar. 29, 1974, 88 Stat. 53, provided that:

"Section 1 [Short title]. This Act may be cited as the 'Funeral Transportation and Living Expense Benefits Act of 1974'.

"Sec. 2 [Findings]. (a) The United States did in 1973 provide transportation and other amenities to families of five hundred and fifty-six returned prisoners of war for reunions upon these men's arrival in the continental United States after release from imprisonment by the government of the Democratic Republic of Vietnam and did in 1973 also provide transportation and other amenities to these returned prisoners of war and their families to attend ceremonies in their honor in Washington, District of Columbia.

"(b) The remains of other prisoners of war, having died in captivity in Southeast Asia, are now being returned to the United States for burial.

"(c) The United States owes no lesser degree of respect, honor or solicitude to the memories of the men who died in captivity and their families than in the cases of those who survived and returned alive to the United States.

"(d) It is fitting and proper, therefore, as a mark of respect to those men who died in captivity while serving in the Armed Forces of the United States, that comparable courtesies and amenities be extended to the families of these deceased military personnel.

"Sec. 3 [Benefits; deceased prisoners of war or members missing in action; eligible family members]. (a) The Secretary of Defense is authorized to provide funeral transportation and living expenses benefits for the family of any deceased member of the Armed Forces who shall have died while classified as a prisoner of war or as missing in action during the Vietnam conflict and whose remains shall have been returned to the United States after January 27, 1973.

"(b) Such benefits shall include transportation roundtrip from such family members' places of residence to the place of burial for such deceased member of the Armed Forces, living expenses and other such allowances as the Secretary shall deem appropriate.

"(c) Eligible family members shall include the deceased's widow, children, stepchildren, mother, father, stepfather and stepmother, or if none of these shall desire to be granted such benefits, the deceased's brothers, sisters, halfbrothers and halfsisters."

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Family separation allowance, see section 427 of this title.

Regulations for administration of section, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406a, 409, 411, 419, 427, 1003 of this title; title 5 section 4109; title 10 section 2634.

§ 406a. Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified

Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances under section 404 of this title, and to transportation of his dependents, baggage, and household effects under sections 406 and 409 of this title, if otherwise qualified, for travel performed before the effective date of orders that direct him to make a change of station and that are later—

(1) canceled, revoked, or modified to direct him to return to the station from which he was being transferred; or

(2) modified to direct him to make a different change of station.

(Added Pub. L. 88-238, § 1(1), Dec. 23, 1963, 77 Stat. 475.)

EFFECTIVE DATE; LIMITATIONS

Section 2 of Pub. L. 88-238 provided that: "This Act [this section] becomes effective on October 1, 1949. Any member or former member of the uniformed services who, after September 30, 1949, but before the date of enactment of this Act [Dec. 23, 1963], has not been paid, or has repaid the United States, an amount to which he otherwise would have been entitled had section 1 of this Act [this section] been in effect during that period is entitled to be paid or repaid that amount, if the payment or repayment is otherwise proper and he applies for the payment or repayment within one year after the date of enactment of this Act [Dec. 23, 1963]."

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

APPROPRIATIONS

Section 3 of Pub. L. 88-238 provided that: "Any appropriations available to the departments concerned for the pay and allowances of members of the uniformed services are available for payments under this Act [this section]."

§ 406b. Travel and transportation allowances: members of the Uniformed Services attached to a ship overhauling or inactivating away from home port

Under regulations prescribed by the Secretary concerned, a member of the Uniformed Services who is on permanent duty aboard a ship which is being overhauled or inactivated

away from its home port and whose dependents are residing at the home port of the ship is entitled to transportation, transportation in kind reimbursement for personally procured transportation, or an allowance for transportation as provided in section 404(d)(3) of this chapter for round trip travel from the port of overhaul or inactivation to the home port on or after the thirty-first, ninety-first, and one hundred and fifty-first calendar day after the date on which the ship enters the overhaul or inactivation port or after the date on which the member becomes permanently attached to the ship, whichever date is later: *Provided, however,* That in no event shall the amount of reimbursement for personally procured transportation or allowance for transportation exceed the cost of Government-procured commercial round trip air travel.

(Added Pub. L. 91-210, § 1(1), Mar. 13, 1970, 84 Stat. 53, and amended Pub. L. 93-170, Nov. 29, 1973, 87 Stat. 689.)

AMENDMENTS

1973—Pub. L. 93-170 substituted "overhauling or inactivating" for "overhauling" in the section catchline, and "overhauled or inactivated" and "overhaul or inactivation" for "overhauled" and "overhaul" respectively, wherever appearing.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

§ 407. Travel and transportation allowances: dislocation allowance

(a) Except as provided by subsections (b) and (c) of this section, under regulations prescribed by the Secretary concerned, a member of a uniformed service—

(1) whose dependents make an authorized move in connection with his change of permanent station;

(2) whose dependents are covered by section 405a(a) of this title; or

(3) without dependents, who is transferred to a permanent station where he is not assigned to quarters of the United States;

is entitled to a dislocation allowance equal to his basic allowance for quarters for one month as provided for a member of his pay grade and dependency status in section 403 of this title. For the purposes of this subsection, a member whose dependents may not make an authorized move in connection with a change of permanent station is considered a member without dependents.

(b) A member is not entitled to more than one dislocation allowance during a fiscal year unless—

(1) The Secretary concerned finds that the exigencies of the service require the member to make more than one such change of station during that fiscal year;

(2) the member is ordered to a service school as a change of permanent station; or

(3) the member's dependents are covered by section 405a(a) of this title.

This subsection does not apply in time of national emergency declared after April 1, 1955, or in time of war.

(c) A member is not entitled to payment of a dislocation allowance when ordered from his home to his first duty station or from his last duty station to his home.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 474; Pub. L. 89-26, § 1(3), (4), May 22, 1965, 79 Stat. 117; Pub. L. 89-718, § 60, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-207, § 1(4), Dec. 16, 1967, 81 Stat. 651.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
407(a).....	37:253(c) (4th sentence).	Oct. 12, 1949, ch. 681,
407(b).....	37:253(c) (5th, 6th, and 7th, sentences).	§ 303(c) (4th through 8th sentences); added
407(c).....	37:253(c) (8th sentence).	Mar. 31, 1955, ch. 20, § 2(12), 69 Stat. 21.

In subsection (a), the words "Except as provided in subsections (b) and (c) of this section" and "for one month" are inserted for clarity. The words "make an authorized move" are substituted for the words "are authorized to move and actually move".

In subsection (b), the words "is not entitled to . . . more than one" are substituted for the words "shall be entitled . . . for not more than one". The words "the payment of" and "for not more than one permanent change of station" are omitted as surplusage. Clauses (1) and (2) are substituted for the last 29 words of the 5th and 6th sentences of section 253(c) of existing title 37.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-207 authorized a dislocation allowance for a member of a uniformed service without dependents who is transferred to a permanent station where he is not assigned to quarters of the United States and for dislocation allowance purposes deemed a member whose dependents may not make an authorized move in connection with a change of permanent station to be a member without dependents.

1966—Pub. L. 89-718 substituted "change of permanent station" for "permanent change of station" in subsecs. (a) and (b)(2).

1965—Subsec. (a). Pub. L. 89-26, § 1(3), authorized a dislocation allowance for a member of the uniformed service whose dependents are covered by section 405a(a) of this title.

Subsec. (b). Pub. L. 89-26, § 1(4), added cl. (3).

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-207 effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as an Effective Date of 1967 Amendment note under section 203 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-26 effective Feb. 1, 1965, see section 2 of Pub. L. 89-26, as amended by section 1 of Pub. L. 89-608, Sept. 30, 1966, 80 Stat. 851; Pub. L. 92-176, Dec. 2, 1971, 85 Stat. 494, set out as an Effective Date note under section 405a of this title.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING OCTOBER 1, 1976

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning Oct. 1, 1976, for purposes of subsec. (b) of this section, see section 205(17) of Pub. L. 94-274, title II, Apr. 21,

1976, 90 Stat. 393, set out as a note under section 5532 of Title 5, Government Organization and Employees.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Regulations for administration of section, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 409, 411, 419, 1003, 1006 of this title.

§ 408. Travel and transportation allowances: travel within limits of duty station

A member of a uniformed service may be directed, by regulations of the head of the department or agency in which he is serving, to procure transportation necessary for conducting official business of the United States within the limits of his station. Expenses so incurred by the member for train, but, streetcar, taxicab, ferry, bridge, and similar fares and tolls, or for the use of privately-owned vehicles at a fixed rate a mile, shall be defrayed by the department or agency under which he is serving, or the member is entitled to be reimbursed for the expense.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 475.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
408	40:491(m).	June 30, 1949, ch. 288, § 211(m); added Sept. 1, 1954, ch. 1211, § 2 (13th par.), 68 Stat. 1126.

The words "(as defined in the Career Compensation Act of 1949, as amended)" and "so directed" are omitted as surplusage. The words "official business of the United States" are substituted for the words "official Government business".

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 419 of this title.

§ 409. Travel and transportation allowances: trailers

Under regulations prescribed by the Secretaries concerned and in place of the transportation of baggage and household effects or payment of a dislocation allowance, a member, or in the case of his death his dependent, who would otherwise be entitled to transportation of baggage and household effects under section 406 of this title, may transport a house trailer or mobile dwelling within the continental United States, within Alaska, or between the continental United States and Alaska, for use as a residence by one of the following means—

(1) transport the trailer or dwelling and receive a monetary allowance in place of transportation at a rate to be prescribed by the Secretaries concerned, but not more than 20 cents a mile;

(2) deliver the trailer or dwelling to an agent of the United States for transportation by the United States or by commercial means; or

(3) transport the trailer or dwelling by commercial means and be reimbursed by the United States subject to such rates as may be prescribed by the Secretaries concerned.

However, the cost of transportation under clause (2) or the reimbursement under clause (3) may not be more than the lesser of (A) the current average cost for the commercial transportation of a house trailer or mobile dwelling; (B) 74 cents a mile; or (C) the cost of transporting the baggage and household effects of the member or his dependent plus the dislocation allowance authorized in section 407 of this title. Any payment authorized by this section may be made in advance of the transportation concerned. For the purposes of this section, "continental United States" means the 48 contiguous States and the District of Columbia.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 475; Pub. L. 88-406, Aug. 7, 1964, 78 Stat. 383; Pub. L. 89-718, §§ 61, 62, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-246, Jan. 2, 1968, 81 Stat. 782.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
409	37:253(c) (12th sentence).	Oct. 12, 1949, ch. 681, § 303(c) (12th sentence); added Mar. 31, 1955, ch. 20, § 2(13), 69 Stat. 22; Mar. 17, 1958, Pub. L. 85-347, 72 Stat. 37; restated Oct. 4, 1961, Pub. L. 87-374, 75 Stat. 804.

The words "the United States, except in Hawaii or Alaska," are substituted for the words "the continental United States" to conform to the definition of United States in section 101(1) of this revised title and to reflect the opinion of the Comptroller General in B-139624, June 29, 1959, that Alaska was not included within those words. The words "an agent of the United States" are substituted for the words "the Government", for clarity. The words "United States" are substituted for the word "Government". The words "of the uniformed services" are omitted as surplusage in view of the definition of member in section 101(23) of this revised title.

AMENDMENTS

1968—Pub. L. 90-246 substituted "74 cents" for "51 cents" as the maximum allowable cost-of-transportation mileage rate.

1966—Pub. L. 89-718 substituted "household effects" for "household goods" and "48" for "forty-eight".

1964—Pub. L. 88-406 substituted "continental United States, within Alaska, or between the continental United States and Alaska" for "United States except in Hawaii or Alaska", "51 cents" for "36 cents", inserted "by the United States or" in cl. (2), and defined "continental United States".

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Regulations for administration of section, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406a, 411, 419, 554, 1003 of this title; title 5 section 4109.

§ 410. Travel and transportation allowances: miscellaneous categories

(a) The following persons are entitled to such travel and transportation allowances provided by section 404 of this title as prescribed by the Secretaries concerned—

(1) cadets of the United States Military Academy;

(2) midshipmen of the United States Naval Academy;

(3) cadets of the United States Air Force Academy;

(4) cadets of the Coast Guard Academy;

(5) applicants for enlistment;

(6) rejected applicants for enlistment;

(7) general prisoners;

(8) discharged prisoners;

(9) insane patients transferred from military hospitals to other hospitals or to their homes; and

(10) persons discharged from Saint Elizabeths Hospital after transfer from a uniformed service.

(b) The Secretary concerned shall, in prescribing allowances under subsection (a) of this section, consider the rights of the United States, as well as those of the persons concerned.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 475.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
410(a)	37:253(e) (less last 25 words).	Oct. 12, 1949, ch. 681, § 303(e), 63 Stat. 815.
410(b)	37:253(e) (last 25 words).	

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Cadets, midshipmen, and naval officer candidates, travel and transportation allowances, see section 422 of this title.

Regulations for administration of section, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 411, 419, 422, 1003 of this title.

§ 411. Travel and transportation allowances: administrative provisions

(a) For the administration of sections 404(a), (b), and (d)-(f), 405, 405a, 406(a)-(f), 407, 409, and 410 of this title, the Secretaries concerned shall prescribe regulations that are, as far as practicable, uniform for all of the uniformed services.

(b) In establishing the rates and kinds of allowances authorized by the sections of this title designated by subsection (a) of this section, the Secretaries concerned shall—

(1) consider the average cost of first-class transportation, including sleeping accommodations, when prescribing a monetary allowance in place of transportation;

(2) consider the current economic data on the cost of subsistence, including lodging and other necessary incidental expenses related thereto, when prescribing per diem rates; and

(3) consider the average cost of first-class transportation, including sleeping accommodations and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage rates.

(c) The Secretaries concerned shall determine what constitutes a travel status for the purposes of the sections of this title designated by subsection (a) of this section.

(d) The Secretary concerned shall define the words "permanent station" for the purposes of the sections of this title designated by subsection (a) of this section. The definition shall include a shore station or the home yard or home port of a vessel to which a member of a uniformed service who is entitled to basic pay may be ordered. An authorized change in the home yard or home port of such a vessel is a change of permanent station.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 89-26, § 1(5), May 22, 1965, 79 Stat. 117.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
411(a)	37:253(h).	Oct. 12, 1949, ch. 681, § 303(c) (10th sentence), (f), (g), (h), 63 Stat. 814.
411(b)	37:253(f).	
411(c)	37:253(g).	
411(d)	37:253(c) (10th sentence).	

In subsection (a), section 253(h) (provisos) of existing title 37 is omitted, since the regulations to which reference is made have been issued. The exceptions to sections 404(c) and 406(g) are inserted, since the source text for those subsections require regulations prescribed thereunder to be uniform.

In subsections (c) and (d), the words "for the purposes of the sections of this title designated by subsection (a) of this section" are inserted to clarify the coverage of the source statute.

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-26 inserted the reference to section 405a.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-26 effective Feb. 1, 1965, see section 2 of Pub. L. 89-26, as amended by section 1 of Pub. L. 89-608, Sept. 30, 1966, 80 Stat. 851; Pub. L. 92-176, Dec. 2, 1971, 85 Stat. 494, set out as an Effective Date note under section 405a of this title.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 419, 1003 of this title.

§ 411a. Travel and transportation allowances: travel performed in connection with convalescent leave

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel from his place of medical treatment in the continental United States to a place selected by him and approved by the Secretary concerned, and return, when the Secretary concerned determines that the member is traveling in connection with authorized leave for convalescence from illness or injury incurred while the member was eligible for the receipt of hostile fire pay under section 310 of this title.

(b) The allowances prescribed under this section may not be at rates more than the rates authorized under section 404(d)(1) of this title. Authorized travel under this section is performed in a duty status.

(Added Pub. L. 90–207, § 9(1), Dec. 16, 1967, 81 Stat. 655.)

EFFECTIVE DATE

Section effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as an Effective Date of 1967 Amendment note under section 203 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

§ 411b. Travel and transportation allowances: travel performed in connection with certain leave

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service stationed outside the forty-eight contiguous States and the District of Columbia who is ordered to make a change of permanent station to another duty station outside the forty-eight contiguous States and the District of Columbia may be paid travel and transportation allowances in connection with authorized leave from his last duty station to a place approved by the Secretary concerned, or his designee, or to a place no farther distant than his home of record if he is a member without dependents, and from the place to his designated post of duty, if either his last duty station or his designated post of duty is a restricted area in which dependents are not authorized.

(b) The allowances prescribed under this section may not exceed the rate authorized under section 404(d) of this title. Authorized travel under this section is performed in a duty status.

(Added Pub. L. 93–213, § 1(1), Dec. 28, 1973, 87 Stat. 910.)

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

§ 412. Appropriations for travel: may not be used for attendance at certain meetings

Appropriations of the Department of Defense that are available for travel may not, without the approval of the Secretary concerned or his designee, be used for expenses incident to attendance of a member of an armed force under that department at a meeting of a technical, scientific, professional, or similar organization.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 476.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
412	5:174a.	Aug. 1, 1953, ch. 305, § 605, 67 Stat. 349.

The words "may not . . . be used" are substituted for the words "shall not be available". The words "on and after August 1, 1953" are omitted as executed. The words "Secretary concerned" are substituted for the words "Secretary of the department concerned" to conform to other sections of this revised title and to the definition in section 101(5) of this revised title. So much of the source statute as relates to civilian employees is omitted as superseded by the Act of July 7, 1958, Pub. L. 85–507, 72 Stat. 327.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89–670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§ 413. Chairman of the Joint Chiefs of Staff

The Chairman of the Joint Chiefs of Staff is entitled to the allowances provided by law for the Chief of Staff of the Army.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 476.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
413	10:142(d) (less applicability to basic pay).	[None.]

§ 414. Personal money allowance

(a) In addition to other pay or allowances authorized by this title, an officer who is entitled to basic pay is entitled to a personal money allowance of—

(1) $500 a year, while serving in the grade of lieutenant general or vice admiral, or in an equivalent grade or rank;

(2) $1,200 a year, in place of any other personal money allowance authorized by this section while serving as Surgeon General of the Public Health Service;

(3) $2,200 a year, in addition to the personal money allowance authorized by clause (1) of this subsection, while serving as a senior member of the Military Staff Committee of the United Nations;

(4) $2,200 a year, while serving in the grade of general or admiral, or in an equivalent grade or rank; or

(5) $4,000 a year, in place of any other personal money allowance authorized by this section, while serving as Chief of Staff of the

Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard.

(b) In addition to other pay or allowances authorized by law, an officer who is serving in one of the following positions is entitled to the amount set forth for that position, to be paid annually out of naval appropriations for pay, and to be spent in his discretion for the contingencies of his position—

(1) Superintendent of the Naval Postgraduate School—$400;

(2) Commandant of Midshipmen at the Naval Academy—$800;

(3) President of the Naval War College—$1,000;

(4) Superintendent of the Naval Academy—$5,200; and

(5) Director of Naval Intelligence—$5,200.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 89-718, § 49(a)(2), Nov. 2, 1966, 80 Stat. 1121.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
414(a).....	37:254.	Oct. 12, 1949, ch. 681, § 304, 63 Stat. 816; Aug. 10, 1956, ch. 1041, § 20(c), 70A Stat. 627; May 20, 1958, Pub. L. 85-422, § 1(11), 72 Stat. 127; Sept. 14, 1961, Pub. L. 87-233, § 3, 75 Stat. 507.
414(b).....	37:257.	Aug. 2, 1946, ch. 756, § 3, 60 Stat. 853.

In subsection (b), the words "pay or" are inserted to conform to subsection (a). The word "position" is substituted for the words "capacities" and "officers", respectively. In clause (1), the words "Superintendent of the Naval Postgraduate School" are substituted for the words "Head of the Postgraduate school at the Naval Academy" to reflect present terminology.

AMENDMENTS

1966—Subsec. (a)(2). Pub. L. 89-718 struck out reference to service as the Director of the Coast and Geodetic Survey.

TRANSFER OF FUNCTIONS

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1003 of this title.

§ 415. Uniform allowance: officers; initial allowance

(a) Subject to subsections (b) and (c) of this section, a reserve officer of an armed force, an officer of the Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106 or 2107 of title 10 is entitled to an initial allowance of not more than $200 as reimbursement for the purchase of required uniforms and equipment—

(1) upon first reporting for active duty (other than for training) for a period of more than 90 days;

(2) upon completing at least 14 days of active duty as a member of a reserve component; or

(3) upon completing 14 periods, each of which was of at least two hours' duration, of inactive-duty training as a member of the Ready Reserve.

(b) An officer who has received an initial uniform reimbursement or allowance under any other law is not entitled to an initial allowance under subsection (a) of this section.

(c) An officer who has served on active duty as an officer of a regular component of an armed force may not, on the basis of any duty performed within two years after his separation from that component, qualify for an initial allowance under subsection (a) of this section.

(d) An allowance of $250 for uniforms and equipment may be paid to each commissioned officer of the Public Health Service who is—

(1) on active duty;

(2) required by directive of the Surgeon General to wear a uniform; and

(3) entitled to the basic pay of pay grade O-1, O-2, or O-3.

An officer is not entitled to more than one allowance under this subsection.

(e) An enlisted member of the Navy, Marine Corps, or Coast Guard who is initially appointed as a temporary officer under section 5596 or 5597 of title 10 or section 214 of title 14, or a warrant officer under section 213 of title 14, as the case may be, is entitled to a uniform allowance of $250.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 477; Pub. L. 88-647, title II, § 202(3), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-444, § 2(1), June 9, 1966, 80 Stat. 198; Pub. L. 89-718, § 63, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-83, § 5(1), Sept. 11, 1967, 81 Stat. 221; Pub. L. 91-278, § 3(3), June 12, 1970, 84 Stat. 306.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
415(a).....	37:255(a) (less provisos).	Oct. 12, 1949, ch. 681,
415(b).....	37:255(a) (2d proviso).	§ 305(a) (less 1st proviso);
415(c).....	37:255(a) (last proviso).	added Aug. 10, 1956, ch. 1041, § 20(d) (1st par., less 1st proviso), 70A Stat. 628.
415(d).....	42:214.	July 1, 1944, ch. 373, § 213; restated Apr. 27, 1956, ch. 211, § 2(a), 70 Stat. 116.
415(e).....	37:256.	Oct. 12, 1949, ch. 681, § 306; added Aug. 10, 1956, ch. 1041, § 20(d) (last par.), 70A Stat. 629.
	[Uncodified.]	Aug. 7, 1947, ch. 512, § 302(f), 61 Stat. 830.

In subsection (a), the words "Subject to subsections (b) and (c) of this section," are inserted for clarity. The words "of an armed force" are inserted, since the source section, as originally enacted, did not apply to the Public Health Service or the Coast and Geodetic Survey. (See section 243 of the Armed Forces Reserve Act of 1952 (66 Stat. 492).) The words "of the Army, or the Air Force, without specification of component" are inserted to reflect the definition of "reserve component" in section 102(k) of the source statute. That definition is executed throughout this revised title. For that reason, the words "but not as a member of the Army without specification of component or the Air Force without specification of component, in section 255(a)(2) of existing title 37", are omitted, and since those categories are excluded by the words "member of a reserve component". The words "of a reserve component", in section 255(a)(3) of existing title 37, are omitted, since the Ready Reserve cannot be in anything other than a reserve component.

In subsection (b), the words "heretofore or hereafter" are omitted as surplusage.

In subsection (c), the words "An officer" are substituted for the words "any individual", since the revised section applies only to officers.

In subsection (d), the words "who is in pay grade O-1, O-2, or O-3" are substituted for the words "is receiving the pay of the junior assistant, assistant, or senior assistant grade" to reflect current terminology. (See chapter 3 of this revised title.) The last sentence is substituted for section 214 (words following semicolon) of title 14.

In subsection (e), the words "as a temporary officer" are inserted for clarity. The words "5596 or" are substituted for section 302(f) of the Act of August 7, 1947, cited above.

AMENDMENTS

1970—Subsec. (e). Pub. L. 91-278 provided for entitlement to uniform allowance of enlisted member appointed a warrant officer under section 213 of title 14.

1967—Subsec. (d)(3). Pub. L. 90-83 substituted "entitled to the basic pay" for "is entitled to the basic pay".

1966—Subsec. (a). Pub. L. 89-718 struck out ", United States Code," following "title 10".

Subsec. (e). Pub. L. 89-444 substituted "section 214 of title 14" for "section 435 of title 14".

1964—Subsec. (a). Pub. L. 88-647 included a regular officer of an armed force appointed under section 2106 or 2107 of title 10.

CROSS REFERENCES

Duty for which officer is required to wear uniform as only duty counted for purposes of this section, see section 417 of this title.

Regulations to carry out section, see section 417 of this title.

Uniform and equipment reimbursement upon transfer to, or appointment in, another reserve component, see section 417 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 416, 417, 907 of this title.

§ 416. Uniform allowance: officers; additional allowance

(a) In addition to the initial uniform allowance authorized by section 415(a)-(c) of this title, a reserve officer of an armed force who has not become entitled to a uniform reimbursement or allowance as an officer during the preceding four years, is entitled to not more than $50 as reimbursement for the purchase of required uniforms and equipment, upon completion of each period, after July 9, 1952, of four years of service, as prescribed by section 1332(a)(2) of title 10, in an active status in one or more reserve components, including at least 28 days of active duty. However, periods of active duty of more than 90 days may not be included in computing that four years of service.

(b) In addition to the allowance provided by section 415(a)-(c) of this title and subsection (a) of this section, a reserve officer of an armed force, an officer of the Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106, or 2107 of title 10 is entitled to not more than $100 as reimbursement for additional uniforms and equipment required on that duty, for each time that he enters on active duty for a period of more than 90 days. However, this subsection does not apply to a tour of active duty if—

(1) the officer, during that tour or within a period of two years before entering on that tour, received, under any law, an initial uniform reimbursement or allowance of more than $200; or

(2) the officer enters on that tour within two years after completing a period of active duty of more than 90 days' duration.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 477; Pub. L. 88-624, § 1, Oct. 3, 1964, 78 Stat. 1002; Pub. L. 88-647, title II, § 202(3), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-718, § 63, Nov. 2, 1966, 80 Stat. 1123.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
416(a).....	37:255(b).	
416(b).....	37:255(c).	Oct. 12, 1949, ch. 681, § 305(b), (c); added Aug. 10, 1956, ch. 1041, § 20(d) (2d and 3d pars.), 70A Stat. 628; Sept. 2, 1958, Pub. L. 85-861, § 33(f), 72 Stat. 1568.

In subsection (a), the words "In addition to the initial uniform allowance authorized by section 431 (a)-(d) of this title" are substituted for the word "additional". Section 255(b) (last proviso of 1st sentence) of existing title 37 is omitted as executed. The words "may not be included" are substituted for the words "shall be excluded". Section 255(b) (last sentence) of existing title 37 is omitted, since the categories named therein are excluded by the words "a reserve officer". (See revision note for section 415(a) of this revised title.)

In subsection (b), the introductory clause is substituted for the word "further". The words "of an armed force" and "of the Army, or the Air Force, without specification of component" are inserted for the reasons stated in the revision note for section 415(a) of this revised title. Clauses (1) and (2) are substituted for section 255(c) (provisos) of existing title 37.

AMENDMENTS

1966—Subsec. (b). Pub. L. 89-718 struck out ", United States Code," following "title 10".

1964—Subsec. (a). Pub. L. 88-624 substituted "in one or more reserve components" for "in a reserve component" and "section 1332(a)(2)" for "section 1332".

Subsec. (b). Pub. L. 88-647 included a regular officer of an armed force appointed under section 2106 or 2107 of title 10.

ALLOWANCE FOR SERVICE PRIOR TO OCTOBER 3, 1964

Section 2 of Pub. L. 88-624 provided that: "The amendments made by this Act [to subsec. (a) of this

section] do not entitle an officer to an allowance for any 4-year period of service completed prior to the effective date of this Act [Oct. 3, 1964]."

CROSS REFERENCES

Duty for which officer is required to wear uniform as only duty counted for purposes of this section, see section 417 of this title.

Regulations to carry out section, see section 417 of this title.

Uniform and equipment reimbursement upon transfer to, or appointment in, another reserve component, see section 417 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 417 of this title.

§ 417. Uniform allowance: officers; general provisions

(a) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department may prescribe regulations that he considers necessary to carry out sections 415(a)–(c) and 416 of this title within his department. The Secretary of Transportation, with the concurrence of the Secretary of the Navy, may prescribe regulations that he considers necessary to carry out those sections for the Coast Guard when it is not operating as a service in the Navy. As far as practicable, regulations for all reserve components shall be uniform.

(b) Under regulations approved by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, and subject to section 415(a)–(c) or 416 of this title, a reserve officer of an armed force who has received a uniform and equipment allowance under section 415(a)–(c) or 416 of this title, may if a different uniform is required, be paid a uniform and equipment reimbursement upon transfer to, or appointment in, another reserve component.

(c) For the purposes of sections 415(a)–(c) and 416 of this title and subsections (a) and (b) of this section, an officer may count only that duty for which he is required to wear a uniform.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 478; Pub. L. 90–623, § 3(1), Oct. 22, 1968, 82 Stat. 1314.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
417(a)	37:255(e).	Oct. 12, 1949, ch. 681, § 305 (1st proviso of (a)), (d), (e); added Aug. 10, 1956, ch. 1041, § 20(d) (1st proviso of 1st par., 4th par., and 5th par.), 70A Stat. 629.
417(b)	37:255(d).	
417(c)	37:255(a) (1st proviso).	

In subsection (a), the words "within that department" are inserted for clarity. The words "may prescribe" are substituted for the words "shall prescribe", since the words "that he considers necessary" indicate that the prescribing of regulations is not mandatory.

Subsection (b) is substituted for section 255(d) (less last sentence) of existing title 37. Section 255(d) last sentence) of existing title 37 is omitted, since the categories named therein are excluded by the words "a reserve officer". (See revision note for section 415(a) of this revised title.)

AMENDMENTS

1968—Subsecs. (a), (b). Pub. L. 90–623 substituted "Secretary of Transportation" for "Secretary of the Treasury".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

§ 418. Clothing allowance: enlisted members

The President may prescribe the quantity and kind of clothing to be furnished annually to an enlisted member of the armed forces or the National Guard, and may prescribe the amount of a cash allowance to be paid to such a member if clothing is not so furnished to him.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 478.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
418	37:305.	Oct. 12, 1949, ch. 681, § 505, 63 Stat. 828.

The words "the armed forces" are substituted for the words "the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard" to conform to the definition in section 101(4) of this title. The words "the Naval Reserve, the Marine Corps Reserve, . . . the National Guard of the United States, the Air National Guard of the United States, the Army Reserve, the Air Force Reserve, and the Coast Guard Reserve" are omitted, since, under the definitions of the armed forces concerned in sections 3062(c), 5001(a)(1) and (2), and 8062(d) of title 10, and section 751a of title 14, those organizations, or their successors, are components of the armed force concerned.

EX. ORD. NO. 10113. CLOTHING ALLOWANCES FOR ENLISTED PERSONNEL

Ex. Ord. No. 10113, Feb. 27, 1950, 15 F.R. 1065, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the armed forces, it is ordered as follows:

1. The Secretary of Defense with respect to enlisted men of the Army, the Navy, the Air Force, the Marine Corps, the Naval Reserve, the Marine Corps Reserve, the National Guard, the Air National Guard, the National Guard of the United States, the Air National Guard of the United States, the Organized Reserve Corps [Army Reserve] and the Air Force Reserve, and the Secretary of the Treasury with respect to enlisted men of the Coast Guard and the Coast Guard Reserve, are hereby authorized and directed, after appropriate consultation with the Director of the Bureau of the Budget [now Director of the Office of Management and Budget], to perform the functions vested in the President by section 505 of the Career Compensation Act of 1949, approved October 12, 1949 (Public Law 351, 81st Congress) [this section], relative to prescribing the quantity and kind of clothing which shall be furnished annually to enlisted men of the aforesaid services and relative to prescribing the amount of the cash allowance to be paid to such enlisted men in any case in which clothing is not so furnished to them.

2. The quantity and kind of clothing, and any cash allowances in lieu thereof, prescribed by the Secretary

of the Treasury hereunder with respect to the Coast Guard and the Coast Guard Reserve shall, so far as practicable, be in conformity with those prescribed by the Secretary of Defense with respect to the Navy and Naval Reserve, respectively.

3. Existing regulations prescribing the quantity and kind of clothing furnished, and any cash allowances in lieu thereof, shall remain in effect until modified, revoked, or superseded by action taken pursuant to this order.

4. The term "enlisted men" as used in this order shall be deemed to apply to enlisted persons of either sex.

5. This order shall become effective on April 1, 1950, and on that date shall supersede Executive Order No. 10049 [Apr. 4, 1949, 14 F.R. 1563] entitled "Delegating the Authority of the President to Prescribe Clothing Allowances, and Cash Allowances in Lieu Thereof, to Enlisted Men in the Armed Forces."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

§ 419. Allowances while participating in international sports

(a) Section 717 of title 10 does not authorize the payment of allowances at higher rates than those provided for participation in military activities not covered by that section.

(b) Notwithstanding any other law, a member of a uniformed service is not entitled to travel and transportation allowances under sections 404-411 of this title for any period during which his expenses for travel or transportation are being paid by the agency sponsoring his participation in a competition covered by section 717 of title 10.

(c) Notwithstanding any other law, a member of a uniformed service who has no dependents is not entitled to the basic allowances for subsistence and quarters authorized by sections 402 and 403 of this title for a period during which he is subsisted and quartered by the agency sponsoring his participation in a competition covered by section 717 of title 10.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 478; Pub. L. 89-718, § 64, Nov. 2, 1966, 80 Stat. 1123.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
419(a)	37:256a(a).	Oct. 12, 1949, ch. 681, § 307; added Sept. 2, 1958, Pub. L. 85-861, § 11, 72 Stat. 1556.
419(b)	37:256a(b).	
419(c)	37:256a(c).	

AMENDMENTS

1966—Pub. L. 89-718 substituted "section 717 of title 10" for "section 716 of title 10" wherever appearing.

§ 420. Allowances: no increase while dependent is entitled to basic pay

A member of a uniformed service may not be paid an increased allowance under this chapter, on account of a dependent, for any period during which that dependent is entitled to basic pay under section 204 of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
420	37:231(g) (last proviso of last sentence).	Oct. 12, 1949, ch. 681, § 102(g) (last proviso of last sentence), 63 Stat. 805.

The words "of a uniformed service" are inserted for clarity. The words "claiming a dependent as defined in this subsection" are omitted as surplusage. The words "under section 204 of this title" are substituted for the words "for the performance of duty as defined in section 232(e) of this revised title".

§ 421. Contract surgeons

(a) A contract surgeon who is serving full time with a uniformed service is entitled to the basic allowances, and other allowances authorized by this chapter, of a commissioned officer in pay grade O-3 with over four, but not more than six, years of service computed under section 205 of this title.

(b) A contract surgeon who is serving part time with a uniformed service is entitled to the travel and transportation allowances authorized by this chapter under the same conditions and in the same amounts as are applicable to commissioned officers.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479; Pub. L. 88-132, § 3(b), Oct. 2, 1963, 77 Stat. 212.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
421(a)	37:304 (less last sentence and less applicability to basic pay).	Oct. 12, 1949, ch. 681, § 504 (less applicability to basic pay), 63 Stat. 827.
421(b)	37:304 (last sentence, less applicability to basic pay).	

The subsection (a), the words "with less than two years of service computed under section 205 of this title" are substituted for the word "minimum".

AMENDMENTS

1963—Subsec. (a). Pub. L. 88-132 substituted "O-3 with over four, but not more than six," for "O-2 with less than two".

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

§ 422. Cadets and midshipmen

(a) A cadet at the United States Military Academy, the United States Air Force Acade-

my, or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to the allowances provided by law for a midshipman in the Navy, and to travel and transportation allowances prescribed under section 410 of this title while traveling under orders as a cadet or midshipman.

(b) Each midshipman of the Navy to whom a Navy ration is not furnished is entitled to the commuted value of the ration in money for each day that he is on active duty, including each day that he is on leave. The Secretary of the Navy may prescribe regulations stating the conditions under which the commuted value shall be allowed and may prescribe regulations establishing the rates at which the ration shall be commuted.

(c) A cadet or midshipman appointed under section 2107 of title 10 is entitled to the same allowances as are provided for cadets and midshipmen at the United States Military, Naval, and Air Force Academies for—

(1) initial travel to the educational institution in which matriculated;

(2) travel while under orders; and

(3) travel on discharge.

However, no allowance for travel on discharge may be paid to a discharged cadet or midshipman who continues his scholastic instruction at the same educational institution.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479; Pub. L. 88-647, title II, § 202(4), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-718, § 63, Nov. 2, 1966, 80 Stat. 1123.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
422(a)	37:306 (less applicability to pay).	Oct. 12, 1949, ch. 681, § 508 (less applicability to pay), 63 Stat. 828.
422(b)	10:6081(b) (9th through 17th words).	[None.]
	10:6081(c) (16th through 19th words).	[None.]
422(c)	10:6904(c).	[None.]
	10:6905(c).	[None.]
422(d)	10:6906(c) (1st sentence, less applicability to pay).	[None.]

In subsection (a), the words "prescribed under section 410 of this title" are inserted to reflect that revised section.

AMENDMENTS

1966—Subsec. (c). Pub. L. 89-718 struck out ", United States Code," following "title 10".

1964—Subsec. (c). Pub. L. 88-647, § 202(4)(A), (B), among other changes, substituted provisions relating to a cadet or midshipman appointed under section 2107 of title 10, for provisions relating to a midshipman appointed under section 6904 of title 10, or a seaman recruit enlisted under section 6905 of title 10, and "educational institution" for "college or university", in the text, and "Cadets and midshipmen" for "Cadets, midshipmen, and naval officer candidates", in the section catchline.

Subsec. (d). Pub. L. 88-647, § 202(4)(C), eliminated subsection (d) which entitled a midshipman under section 6906 of title 10, while on flight training or duty, to the allowances of a midshipman at the United States Naval Academy.

§ 423. Validity of allowance payments based on purported marriages

A payment of an allowance, based on a purported marriage, that is made under this chapter, under the Career Compensation Act of 1949, or under the Pay Readjustment Act of 1942, before judicial annulment or termination of that marriage, is valid, if a court of competent jurisdiction adjudges or decrees that the marriage was entered into in good faith on the part of the spouse who is a member of a uniformed service or if, in the absence of such a judgment or decree, such a finding of good faith is made by the Secretary concerned or by a person designated by him to investigate the matter.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
423	37:303.	Oct. 12, 1949, ch. 681, § 503, 63 Stat. 827.

The words "or which hereafter may be" are omitted as surplusage. The words "a person designated by him to investigate the matter" are substituted for the words "such person as he may designate for the purpose".

REFERENCE IN TEXT

The Career Compensation Act of 1949, referred to in text, is act Oct. 12, 1949, ch. 681, 63 Stat. 802, as amended, which was classified principally to chapter 4 (§ 231 et seq.) of former Title 37, Pay and Allowances, prior to the revision and reenactment of title 37 by Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 451. For distribution of sections of chapter 4 of former title 37, see Table preceding section 101 of this title.

The Pay Readjustment Act of 1942, referred to in text, is act June 16, 1942, ch. 413, 56 Stat. 359, which was classified principally to chapter 2 (§ 101 et seq.) of former Title 37, Pay and Allowances, and was repealed by the Career Compensation Act of 1949, act Oct. 12, 1949, ch. 681, title V, § 531(a), (b)(34), (c)(12), 63 Stat. 838.

§ 424. Band leaders

(a) The leader of the Army Band is entitled to the allowances of a captain in the Army.

(b) The director of music at the United States Military Academy is entitled to the allowances of a commissioned officer whose grade corresponds to the rank prescribed for the director by the Secretary of the Army.

(c) The leader of the United States Navy Band is entitled to the allowances of a lieutenant in the Navy.

(d) A member of the Marine Corps who is appointed as director or assistant director of the United States Marine Corps Band under section 6222 of title 10, is entitled, while serving thereunder, only to the allowances of an officer in the grade in which he is serving. However, his allowances may not be less than those to which he was entitled at the time of his appointment under that section.

(e) The leader of the Naval Academy Band is entitled to the allowances of the pay grade prescribed for him by the Secretary of the Navy

under section 207(e) of this title. The second leader is entitled to the allowances of a warrant officer, W-1.

(f) The director of the Coast Guard Band is entitled to the allowances of an officer in the grade in which he is serving. However, his allowances may not be less than those to which he was entitled at the time of his appointment as director.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480; Pub. L. 89-189, § 3, Sept. 17, 1965, 79 Stat. 820.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
424(a)	10:3536(b) (less applicability to basic pay).	[None.]
424(b)	10:4338(a) (as applicable to allowances).	[None.]
424(c)	10:6221(b) (less applicability to basic pay).	[None.]
424(d)	10:6222(c) (less applicability to basic pay).	[None.]
424(e)	10:6969(b) (less last sentence, and less applicability to basic pay).	[None.]

AMENDMENTS

1965—Subsec. (f). Pub. L. 89-189 added subsec. (f).

§ 425. United States Navy Band; United States Marine Corps Band: allowances while on concert tour

While on concert tours approved by the President, the members of the United States Navy Band and the United States Marine Corps Band do not forfeit allowances.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
425	10:6224.	[None.]

The words "do not forfeit" are substituted for the words "lose no" for clarity.

DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Secretary of Defense, see section 1(14) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

[§ 426. Repealed. Pub. L. 90-377, § 10, July 5, 1968, 82 Stat. 288]

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480, provided for the payment to persons confined in a naval confinement facility under the sentence of a court-martial of not more than $3 a month for necessary expenses, such payments to be made from appropriations for the pay of the Navy or the Marine Corps.

§ 427. Family separation allowance

(a) In addition to any allowance or per diem to which he otherwise may be entitled under this title, a member of a uniformed service with dependents who is on permanent duty outside of the United States, or in Alaska, is entitled to a monthly allowance equal to the basic allowance for quarters payable to a member without dependents in the same pay grade if—

(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station; and

(2) quarters of the United States or a housing facility under the jurisdiction of a uniformed service are not available for assignment to him.

(b) Except in time of war or of national emergency hereafter declared by Congress, and in addition to any allowance or per diem to which he otherwise may be entitled under this title, including subsection (a) of this section, a member of a uniformed service with dependents (other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years' or less service)) is entitled to a monthly allowance equal to $30 if—

(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station;

(2) he is on duty on board a ship away from the home port of the ship for a continuous period of more than 30 days; or

(3) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

A member who becomes entitled to an allowance under this subsection by virtue of duty described in clause (2) or (3) for a continuous period of more than 30 days is entitled to the allowance effective as of the first day of that period. An allowance is payable under this subsection even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management and control, which he is likely to share with them as a common household when his duty assignment permits.

(Added Pub. L. 88-132, § 11(1), Oct. 2, 1963, 77 Stat. 217, and amended Pub. L. 91-529, § 1, Dec. 7, 1970, 84 Stat. 1389; Pub. L. 91-533, § 1, Dec. 7, 1970, 84 Stat. 1392.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-533 struck out "who is entitled to a basic allowance for quarters" following "(4 years' or less service)".

Pub. L. 91-529 added the provisions authorizing the payment of an allowance under this subsection even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management or control, which he is likely to share with them as a common household when his duty assignment permits.

EFFECTIVE DATE OF 1970 AMENDMENTS

Section 2 of Pub. L. 91-533 provided that: "The amendment made by this Act [amending subsec. (b) of this section] shall take effect on the first day of the first calendar month which occurs after the date of the enactment of this Act [Dec. 7, 1970]."

Section 2 of Pub. L. 91-529 provided that: "Section 1 of this Act [amending subsec. (b) of this section] is effective October 1, 1963."

EFFECTIVE DATE

Section effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

FAMILY SEPARATION ALLOWANCE FOR MEMBERS IN MISSING STATUS DURING THE VIETNAM CONFLICT

Pub. L. 91-534, Dec. 7, 1970, 84 Stat. 1392, provided: "[Sec. 1.] That, under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service with dependents who is in a missing status (as defined in section 551(2) of title 37 United States Code) during the Vietnam conflict and is not entitled to an allowance under section 427(b) of title 37 may be paid a monthly allowance equal to $30. For the purposes of this Act, the Vietnam conflict ends on the date designated by the President by Executive order as the date of the termination of combat activities in Vietnam.

"Sec. 2. This Act takes effect on the first day of the first month which begins after the date of enactment of this Act [Dec. 7, 1970]."

§ 428. Allowance for recruiting expenses

In addition to other pay or allowances authorized by law, and under uniform regulations prescribed by the Secretaries concerned, a member who is assigned to recruiting duties for his armed force may be reimbursed for actual and necessary expenses incurred in connection with those duties.

(Added Pub. L. 92-129, title II, § 205(a), Sept. 28, 1971, 85 Stat. 359.)

EFFECTIVE DATE

Section effective Oct. 1, 1971, see section 209 of Pub. L. 92-129, set out as an Effective Date note under section 302a of this title.

PAY CONTINUATION

Enactment of this section not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note captioned Pay Continuation Provisions under section 203 of this title.

CHAPTER 9—LEAVE

Sec.
501. Payments for unused accrued leave.
502. Absences due to sickness, wounds, and certain other causes.
503. Absence without leave or over leave.
504. Cadets and midshipmen: chapter does not apply to.

§ 501. Payments for unused accrued leave

(a) In this section, "discharge" means—

(1) in the case of an enlisted member, separation or release from active duty under honorable conditions or appointment as an officer;

(2) in the case of an officer, separation or release from active duty under honorable conditions; and

(3) in the case of either an officer or an enlisted member, death while on active duty unless the decedent was put to death as lawful punishment for a crime or a military offense.

(b)(1) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration, who has accrued leave to his credit at the time of his discharge, is entitled to be paid in cash or by a check on the Treasurer of the United States for such leave on the basis of the basic pay to which he was entitled on the date of discharge.

(2) Payment may not be made under this subsection to a member who is discharged for the purpose of accepting an appointment or a warrant, or entering into an enlistment, in any uniformed service.

(3) Payment may not be made to a member for any leave he elects to have carried over to a new enlistment in any uniformed service on the day after the date of his discharge; but payment may be made to a member for any leave he elects not to carry over to a new enlistment. However, the number of days of leave for which payment is made may not exceed sixty, less the number of days for which payment was previously made under this section after the first day of the second calendar month following the month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted.

(4) A member to whom a payment may not be made under this subsection, or a member who reverts from officer to enlisted status, carries the accrued leave standing to his credit from the one status to the other within any uniformed service.

(c) Unused accrued leave for which payment is made under subsection (b) of this section is not considered as service for any purpose.

(d) Payments for unused accrued leave under subsections (b) and (g) of this section, in the case of a member who dies while on active duty or in the case of a member or former member who dies after retirement or discharge and before he receives that payment, shall be made in accordance with section 2771 of title 10. In the case of a member who dies while on active duty, payment for unused accrued leave under subsections (b) and (g) of this section shall be based upon the unused accrued leave the member carried forward into the leave year during which he died plus the unusued[1] leave that accrued to him during that leave year. However, the number of days upon which payment is based is subject to subsection (f).

(e) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration who is discharged under other than honorable conditions forfeits all accrued leave to his credit at the time of his discharge.

(f) The number of days upon which payment under subsection (b), (d), or (g) is based may not exceed sixty, less the number of days for which payment has been previously made under such subsections after the first day of the second calendar month following the month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted. For the purposes of this subsection, the number of days upon which payment may be based shall be determined without regard to any break in service or change in status in the uniformed services.

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[1] So in original. Probably should be "unused".

(g) An officer of the Regular Corps of the Public Health Service, or an officer of the Reserve Corps of the Public Health Service on active duty, who is credited with accumulated and accrued annual leave on the date of his separation, retirement, or release from active duty, shall, if his application for that leave is approved by the Surgeon General, be paid for that leave in a lump-sum on the basis of his basic pay, subsistence allowance, and allowance for quarters whether or not he is receiving that allowance on that date. However, the number of days upon which the lump-sum payment is based is subject to subsection (f). A lump-sum payment may not be made under this subsection to an officer—

(1) whose appointment expires or is terminated and who, without a break in active service, accepts a new appointment;

(2) who is retired for age in time of war and is continued on, or recalled to, active duty without a break in active service; or

(3) who is transferred to another department or agency of the United States under circumstances in which, by any other law, his leave may be transferred.

In this subsection, "accumulated annual leave" means unused accrued annual leave carried forward from one leave year into the next leave year, and "accrued annual leave" means the annual leave accruing to an officer during one leave year.

(h) Payment shall be made for all leave accumulated under section 701(g) of title 10 as soon as possible after the name of the person concerned is removed from a missing status, as defined in section 551(2) of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480; Pub. L. 89-151, §§ 1, 2, Aug. 28, 1965, 79 Stat. 586; Pub. L. 89-718, §§ 49(a)(1), 65, Nov. 2, 1966, 80 Stat. 1121, 1123; Pub. L. 92-596, § 2, Oct. 27, 1972, 86 Stat. 1318; Pub. L. 94-361, title III, § 304(a)-(g), July 14, 1976, 90 Stat. 925, 926.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
501(a)	37:32(b), (d), (e), and (h).	Aug. 9, 1946, ch. 931, § 2(b), (d), (e), (g), and (h), 60 Stat. 963; June 19, 1948, ch. 541, § 1(a), 62 Stat. 506.
501(b)	37:33(c) (less 3d and last sentences). 37:32(g).	Aug. 9, 1946, ch. 931, § 4(c), (d), 60 Stat. 964; restated Aug. 4, 1947, ch. 475, § 1 (less 1st 2 pars.), 61 Stat. 748; July 24, 1956, ch. 682, § 1, 70 Stat. 625.
	37:39 (less last proviso).	Aug. 17, 1949, ch. 452, § 1 (less last proviso), 63 Stat. 611.
501(c)	37:33(c) (3d sentence).	
501(d)	37:33(c) (last sentence).	
501(e)	37:33(d).	
501(f)	37:31a(b) (proviso).	Aug. 9, 1946, ch. 931, § 3(b) (proviso); added Sept. 23, 1950, ch. 998, § 1 (proviso), 64 Stat. 979.

HISTORICAL AND REVISION NOTES—Continued

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
501(g)	42:210-1(c) (last sentence). 42:210-1(d) (as applicable to 42:210-1(c) (last sentence)).	July 1, 1944, ch. 373, § 219(c) (last sentence), (d) (as applicable to (c) (last sentence)); added Aug. 9, 1950, ch. 654, § 2 (last sentence of 3d par., and 4th par., as applicable to last sentence of 3d par.), 64 Stat. 426.

In subsection (a), the word "officer" is substituted for the words "commissioned officer or warrant officer", in section 32(b) of existing title 37. The words "persons may be treated as parents for the purposes of this clause" are substituted for the words "parents may receive the benefits provided under said sections" in section 32(e) of existing title 37.

In subsections (b)-(d) and (f), the word "payment" is substituted for the word "settlement".

In subsection (b), the words "in pay grade E-9, E-8, E-7, E-6, or E-5 with dependents, an allowance computed at the rate of $1.25 a day for quarters" are substituted for the words "the allowances as provided for such enlisted persons in subsection (a)". The words "after August 31, 1946" are omitted as executed. The word "basic" is substituted for the words "base and longevity" to reflect current terminology.

In subsection (c), the word "accrued" is inserted to conform to subsection (b). The words "and compensated for in cash" are omitted as surplusage.

In subsection (d), the words "and compensation" and "of the Armed Forces" are omitted as surplusage. The words "before he receives" are substituted for the words "without having received".

In subsection (f), the words "cash" and "unused or accumulated" are omitted as surplusage. The words "subsequent to August 31, 1946" are omitted as executed.

In subsection (g), the word "retirement" is omitted as covered by the words "separation or release from active duty". The words "under this subsection" are substituted for the words "for such unused leave". The word "appointment" is substituted for the word "commission".

REFERENCES IN TEXT

The month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted was July of 1976.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-361, § 304(a), (b), struck out cl. (1) designation for existing provisions, made the definition applicable to the section rather than to subsecs. (b) to (f) of this section, and redesignated as clauses (1), (2), and (3) former subclauses (A), (B), and (C); and struck out former clauses (2), (3), and (4) defining "child", "parent", and "brother or sister", respectively.

Subsec. (b). Pub. L. 94-361, § 304(c), in revising the text, incorporated in provisions designated par. (1) the provisions of former first and second sentences for payments for unused accrued leave of officers and enlisted members, deleting consideration of allowances to officers and of allowances to enlisted members computed at rate of 70 cents a day for subsistence and of allowance to enlisted members in pay grades E-9 through E-5 with dependents at rate of $1.25 for quarters, and substituting "National Oceanic and Atmos-

pheric Administration" for "Environmental Science Services Administration"; incorporated in par. (2) provisions of item (1) of former third sentence, substituting "in any uniformed service" for "in his armed force"; incorporated in par. (3) provisions of item (2) of former third sentence, substituting "in any uniformed service" for "in his armed force" and inserting provisions for payment for leave not carried over to a new enlistment and prescribing number of days of leave for which payment may be made; and designated the last (the fourth) sentence as par. (4), substituting "within any uniformed service" for "within his armed force".

Subsec. (d). Pub. L. 94-361, § 304(d), substituted provision making the number of days upon which payment is based subject to subsec. (f) for provision limiting to not more than 60 the number of days upon which the payment is based.

Subsec. (e). Pub. L. 94-361, § 304(e), substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

Subsec. (f). Pub. L. 94-361, § 304(f), added subsec. (f) and deleted former subsec. (f) prohibition against payment for leave in excess of 60 days upon discharge or retirement.

Subsec. (g). Pub. L. 94-361, § 304(g), substituted provision making the number of days upon which the lump-sum payment is based subject to subsec. (f) for provision limiting to not more than 60 the number of days upon which the lump-sum payment is based.

1972—Subsec. (d). Pub. L. 92-596, § 2(1), added reference to accumulated leave under subsection (h) of this section.

Subsec. (h). Pub. L. 92-596, § 2(2), added subsec. (h).

1966—Subsecs. (b), (e). Pub. L. 89-718, § 49(a)(1), substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

Subsec. (d). Pub. L. 89-718, § 65, substituted "60" for "sixty".

1965—Subsec. (a)(1). Pub. L. 89-151, § 1, added subpar. (C).

Subsec. (d). Pub. L. 89-151, § 2, included members who die while on active service and payments for unused accrued leave of members of the Public Health Service, substituted provisions referring to section 2771 of title 10 to find the mode of payment for provision spelling out the mode of payment in detail, omitted provisions prohibiting payment under this section in the event of no survivor and making valid any payments to survivors between the ages of 17 and 21, and inserted provisions basing payment for unused leave in the event of members dying while on active duty upon accrued leave carried forward into the year plus leave accruing during the year with a limit of 60 days.

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-596 effective Feb. 28, 1961, see section 3 of Pub. L. 92-596, set out as an Effective Date of 1972 Amendment note under section 701 of Title 10, Armed Forces.

Effective Date of 1965 Amendment

Section 4 of Pub. L. 89-151 provided that: "This Act [amending this section and repealing section 701(d) of Title 10, Armed Forces] applies only in the case of members who die on or after the date of enactment [Aug. 28, 1965]".

Transfer of Functions

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

Options of Members as to Basis of Payment for Accrued Leave

Section 304(h) of Pub. L. 94-361 provided that: "Notwithstanding the provisions of section 501(b)(1) of title 37, United States Code, as amended by subsection (c), and subject to the limitations prescribed in section 501(b)(3) of such title, as amended by subsection (c), any leave accrued by any member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration prior to the first day of the second calendar month following the month [July, 1976] in which this section is enacted shall, at the option of such member, be paid for on the same basis such leave would have been paid for under the provisions of section 501(b) of title 37, United States Code, on the day prior to the first day of the second calendar month following the month in which this section is enacted".

Section Referred to in Other Sections

This section is referred to in title 10 section 701.

§ 502. Absences due to sickness, wounds, and certain other causes

(a) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or Environmental Science Service Administration, who is absent because of sickness or wounds, or who is directed by the Secretary concerned, or his designated representative, to be absent from duty to await orders pending disability retirement proceedings for a period that is longer than the leave authorized by section 701 of title 10, is entitled to the pay and allowances to which he would be entitled if he were not so absent. A member who is absent with leave for any other reason for not longer than the leave authorized by that section is entitled to the same pay and allowances to which he would be entitled if he were not on leave, and to any additional allowances otherwise provided by law for members on leave.

(b) Except as provided in subsection (a) of this section, a member who is authorized by the Secretary concerned, or his designated representative, to be absent for a period that is longer than the leave authorized by section 701 of title 10 is not entitled to pay or allowances during the part of his absence that is more than the number of days' leave authorized by that section.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 482; Pub. L. 89-718, § 49(a)(1), Nov. 2, 1966, 80 Stat. 1121.)

Historical and Revision Notes

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
502(a)	37:33(b) (1st and last sentences).	Aug. 9, 1946, ch. 931, § 4(b) (less 3d sentence); restated Aug. 4, 1947, ch. 475, § 1 (2d par., less 3d sentence), 61 Stat. 748.
	37:39 (less last proviso).	
	37:32(f) (last 8 words).	Aug. 9, 1946, ch. 931, § 2(f) (last 8 words), 60 Stat. 963.
502(b)	37:33(b) (2d sentence).	Aug. 17, 1949, ch. 452, § 1 (less last proviso), 63 Stat. 611.
	37:32(f) (last 8 words).	Aug. 9, 1946, ch. 931, § 2(f) (last 8 words), 60 Stat. 963.

In subsection (a), the words "After August 31, 1946", in section 33(b) of existing title 37, are omitted as executed. The words "allowance or", in section 33(b) of existing title 37, are omitted as surplusage. The last sentence of section 33(b) of existing title 37 is omitted as executed, since the Act of December 28, 1945 (59 Stat. 663) was repealed by section 506(g) of the Officer Personnel Act of 1947 (61 Stat. 892.)

In subsections (a) and (b), the words ", or his designated representative," are substituted for the last 8 words of section 32(f) of existing title 37.

In subsection (b), the words "Except as provided in subsection (a) of this section" are inserted for clarity. The words "the part of his absence that is more than the number of days' leave authorized by that section" are substituted for the words "such absence".

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

§ 503. Absence without leave or over leave

(a) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or Environmental Science Services Administration, who is absent without leave or over leave, forfeits all pay and allowances for the period of that absence, unless it is excused as unavoidable.

(b) A commissioned officer of the Regular Corps of the Public Health Service, or an officer of the Reserve Corps of the Public Health Service on active duty, who is absent without leave, forfeits all pay and allowances for the period of that absence, unless it is excused as unavoidable.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 482; Pub. L. 89-718, § 49(a)(1), Nov. 2, 1966, 80 Stat. 1121.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
503(a)	37:33(b) (3d sentence).	Aug. 9, 1946, ch. 931, § 4(b) (3d sentence); restated Aug. 4, 1947, ch. 475, § 1 (3d sentence of 2d par.), 61 Stat. 748.
	37:39 (less last proviso).	Aug. 17, 1949, ch. 452, § 1 (less last proviso), 63 Stat. 611.
503(b)	42:210-1(b).	July 1, 1944, ch. 373, § 219(b); added Aug. 9, 1950, ch. 654, § 2 (2d par.), 64 Stat. 426.

In subsections (a) and (b), the words "for the period of that absence" are substituted for the words "during such absence".

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

§ 504. Cadets and midshipmen: chapter does not apply to

This chapter does not apply to cadets at the United States Military Academy, the United States Air Force Academy, the Coast Guard Academy, midshipmen at the United States Naval Academy, or cadets or midshipmen serving elsewhere in the armed forces.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 483.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
504	37:38 (as applicable to payment for leave).	Aug. 9, 1946, ch. 931, § 10 (as applicable to payment for leave); added Aug. 4, 1947, ch. 475, § 3 (as applicable to payment for leave), 61 Stat. 749; Sept. 2, 1958, Pub. L. 85-861, § 33(d)(2), 72 Stat. 1567.

CHAPTER 10—PAYMENTS TO MISSING PERSONS

Sec.
551. Definitions.
552. Pay and allowances; continuance while in a missing status; limitations.
553. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations.
554. Travel and transportation; dependents; household and personal effects; trailers; additional movements; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable.
555. Secretarial review.
556. Secretarial determinations.
557. Settlement of accounts.
558. Income tax deferment.

AMENDMENTS

1972—Pub. L. 92-477, § 1(1), Oct. 9, 1972, 86 Stat. 793, inserted in item 554 reference to "trailers; additional movements;" following "household and personal effects;".

1966—Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 625, added chapter 10 and items 551 to 558.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 10 sections 1482, 1524; title 18 section 1923; title 38 section 107.

§ 551. Definitions

In this chapter—

(1) "dependent", with respect to a member of a uniformed service, means—

(A) his wife;

(B) his unmarried child (including an unmarried dependent stepchild or adopted child) under 21 years of age;

(C) his dependent mother or father;

(D) a dependent designated in official records; and

(E) a person determined to be dependent by the Secretary concerned, or his designee;

(2) "missing status" means the status of a member of a uniformed service who is officially carried or determined to be absent in a status of—

(A) missing;

(B) missing in action;

(C) interned in a foreign country;

(D) captured, beleaguered, or besieged by a hostile force; or

(E) detained in a foreign country against his will; and

(3) "pay and allowances" means—

(A) basic pay;

(B) special pay;

(C) incentive pay;

(D) basic allowance for quarters;

(E) basic allowance for subsistence; and

(F) station per diem allowances for not more than 90 days.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 625.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
551(1)	50 App. 1001.	Mar. 7, 1942, ch. 166, § 1, 56 Stat. 143; July 1, 1944, ch. 371, § 1, 58 Stat. 679; Aug. 14, 1964, Pub. L. 88-428, § 1(1), (2), 78 Stat. 437.
551(2)	50 App. 1002(a) (22d through 66th words of 1st sentence for definition purposes).	Mar. 7, 1942, ch. 166, § 2(a) (22d through 66th and 96th through 120th words of 1st sentence, for definition purposes); added July 1, 1944, ch. 371, § 2, 58 Stat. 679; Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, § 1(b) (1st par.), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88-428, § 1(3)(A), 78 Stat. 437.
551(3)	50 App. 1002(a) (96th through 120th words of 1st sentence, for definition purposes).	

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

The words "In this chapter" are substituted for "For the purpose of this Act".

In clause (1), the words "with respect to a member of a uniformed service" are inserted for clarity. In clause (1)(A), the word "lawful" is omitted as unnecessary in view of the accepted recognition of the fact that the word "wife" means a lawful wife. In clause (1)(E), the words "Secretary concerned, or his designee" are substituted for "head of the department concerned, or subordinate designated by him" to conform to the definition in 37 U.S.C. 101(5). The definitions of "person", "active service", and "department", respectively, in 50 App. U.S.C. 1001(a)(1), (b), and (d) are omitted as unnecessary in view of the definitions of "member", "uniformed services", "active service", and "Secretary concerned", in 37 U.S.C. 101(3), (5), (20), and (23).

The definitions in clauses (2) and (3), which do not appear in, but are based on, the source law are created for legislative convenience.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 501 of this title; title 10 sections 701, 1035, 4342, 6954, 9342; title 26 section 112.

§ 552. Pay and allowances; continuance while in a missing status; limitations

(a) A member of a uniformed service who is on active duty or performing inactive-duty training, and who is in a missing status, is—

(1) for the period he is in that status, entitled to receive or have credited to his account the same pay and allowances, as defined in this chapter, to which he was entitled at the beginning of that period or may thereafter become entitled; and

(2) for the period, not to exceed one year, required for his hospitalization and rehabilitation after termination of that status, under regulations prescribed by the Secretaries concerned, with respect to incentive pay, considered to have satisfied the requirements of section 301 of this title so as to entitle him to a continuance of that pay.

However, a member who is performing full-time training duty or other full-time duty without pay, or inactive-duty training with or without pay, is entitled to the pay and allowances to which he would have been entitled if he had been on active duty with pay. Notwithstanding section 1523 of title 10 or any other provision of law, the promotion of a member while he is in a missing status is fully effective for all purposes, even though the Secretary concerned determines under section 556(b) of this title that the member died before the promotion was made.

(b) The expiration of a member's term of service while he is in a missing status does not end his entitlement to pay and allowances under subsection (a) of this section. Notwithstanding the death of a member while in a missing status, entitlement to pay and allowances under subsection (a) of this section ends on the date—

(1) the Secretary concerned receives evidence that the member is dead; or

(2) that his death is prescribed or determined under section 555 of this title.

(c) A member is not entitled to pay and allowances under subsection (a) of this section for a period during which he is officially determined to be absent from his post of duty without authority, and he is indebted to the United States for payments from amounts credited to his account for that period.

(d) A member who is performing full-time training duty or inactive-duty training is entitled to the benefits of this section only when he is officially determined to be in a missing status that results from the performance of duties prescribed by competent authority.

(e) A member in a missing status who is continued in that status under section 555 of this title is entitled to be credited with pay and allowances under subsection (a) of this section.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 625, and amended Pub. L. 92-169, § 1, Nov. 24, 1971, 85 Stat. 489; Pub. L. 92-482, Oct. 12, 1972, 86 Stat. 796; Pub. L. 93-26, § 1, Apr. 27, 1973, 87 Stat. 26.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
552(a)	50 App. 1002(a) (1st sentence, less last 46 words).	Mar. 7, 1942, ch. 166, § 2(a); added July 1, 1944, ch. 371, § 2, 58 Stat. 679; Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, § 1(b) (1st par.), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88-428, § 1(3), 78 Stat. 437.
	50 App. 1014 (as applicable to § 1002(a) (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 2(a) (1st and last sentences)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
552(b)	50 App. 1002(a) (last 46 words of 1st sentence, and 2d sentence).	
552(c)	50 App. 1002(a) (3d sentence).	
552(d)	50 App. 1002(a) (last sentence).	
	50 App. 1014 (as applicable to § 1002(a) (last sentence)).	
552(e)	50 App. 1006 (2d sentence as applicable to pay and allowances).	Mar. 7, 1942, ch. 166, § 6 (2d sentence, as applicable to pay and allowances); added Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88-428, § 1(5)(B), 78 Stat. 437.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the first 22 words are substituted for 50 App. U.S.C. 1002(a) (1st 66 words) to conform to the definitions in 37 U.S.C. 101(3), (18), (20), (22), and (23) and revised section 551(2) of this chapter. The words "pay and allowances, as defined in this chapter," are substituted for the enumeration of pay and allowances in 50 App. U.S.C. 1002(a) (1st sentence) to conform to the definition in revised section 551(3) of this chapter. The words "on active duty" are substituted for "performing full-time active duty" to conform to the definition in 37 U.S.C. 101(18).

In subsection (b), the first sentence is substituted for 50 App. U.S.C. 1002(a) (1st 21 words of 2d sentence). The words "or employment" are omitted as inapplicable to members of the uniformed services. The words "entitlement to pay and allowances under subsection (a) of this section" are substituted for "Such entitlement to pay and allowances" for clarity. The words "Notwithstanding the death of a member while in a missing status" are substituted for 50 App. U.S.C. 1002(a) (2d sentence, less 1st 21 words). The word "member" is substituted for "person" and the word "Secretary" is substituted for "department" to conform to the definitions in 37 U.S.C. 101(5) and (23).

In subsection (c), the words "A member" are substituted for "such person". The words "under subsection (a) of this section" are inserted for clarity. The words "United States" are substituted for "Government" to conform to the style of title 37.

In subsection (d), the words "A member . . . he . . . in a missing status" are substituted for "Persons", "such persons", and the enumerated absent stata to conform to the definitions in 37 U.S.C. 101(23) and revised section 551(2) of this chapter.

In subsection (e), the words "A member in a missing status" are substituted for "a person missing under the conditions specified in section 2 of this Act" to conform to the definition in revised section 551(2) of this chapter. The words "under subsection (a) of this section" are substituted for "as provided in section 2 of this Act".

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-26 provided for full effectiveness for all purposes of promotion of a member while he is in a missing status notwithstanding a determination of the Secretary of death of the member before the making of the promotion.

1972—Subsec. (a). Pub. L. 92-482 designated existing provisions as cl. (1), added cl. (2), and struck out provisions relating to the effectiveness of the promotion of a member of the uniformed services while he is in a missing status and the Secretary concerned determines under section 556(b) of this title that the member died before the promotion was made.

1971—Subsec. (a). Pub. L. 92-169 provided that the promotion of a member of the uniformed services while he is in a missing status is fully effective for all purposes even though the Secretary concerned determines that the member died before the promotion was made.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2 of Pub. L. 93-26 provided that: "For the purposes of chapter 13 [section 401 et seq.] of title 38, United States Code, this Act [amending subsec. (a) of this section] becomes effective as of November 24, 1971. For all other purposes this Act becomes effective as of February 28, 1961."

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-169 effective for the purposes of chapter 13 of Title 38, Veterans' Benefits, on Nov. 24, 1971 and for all other purposes effective as of Feb. 28, 1961, see section 3 of Pub. L. 92-169, set out as an Effective Date of 1971 Amendment note under section 402 of Title 38, Veterans' Benefits.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 553, 555, 556, 557 of this title; title 26 sections 112, 6013.

§ 553. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations

(a) Notwithstanding the end of the period for which it was made, an allotment, including one for the purchase of United States savings bonds, made by a member of a uniformed service before he was in a missing status may be continued for the period he is entitled to pay and allowances under section 552 of this title.

(b) When there is no allotment in effect, or when it is insufficient for a purpose authorized by the Secretary concerned, he, or his designee, may authorize new allotments or increases in allotments that are warranted by the circumstances and payable for the period the member is entitled to pay and allowances under section 552 of this title.

(c) The total of all allotments from the pay and allowances of a member in a missing status may not be more than the amount of pay and allowances he is permitted to allot under regulations prescribed by the Secretary concerned.

(d) A premium paid by the United States on insurance issued on the life of a member which is unearned because it covers a period after his death reverts to the appropriation of the department concerned.

(e) Subject to subsections (f) and (g) of this section, the Secretary concerned, or his desig-

nee, may, when he considers it in the interest of the member, his dependents, or the United States, direct the initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of payments of allotments from the pay and allowances of a member entitled to pay and allowances under section 552 of this title.

(f) When the Secretary concerned officially reports that a member in a missing status is alive, the payments of allotments authorized by subsections (a)–(d) of this section may, subject to section 552 of this title, be made until the date the Secretary concerned receives evidence that the member is dead or has returned to the controllable jurisdiction of the department concerned.

(g) A member in a missing status who is continued in that status under section 555 of this title is entitled to have the payments of allotments authorized by subsections (a)–(d) of this section continued, increased, or initiated.

(h) When the Secretary concerned considers it essential for the well-being and protection of the dependents of a member on active duty (other than a member entitled to pay and allowances under section 552 of this title), he may, with or without the consent, and subject to termination at the request, of the member—

(1) direct the payment of a new allotment from the pay of the member;

(2) increase or decrease the amount of an allotment made by the member; and

(3) continue payment of an allotment of the member which has expired.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 626.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
553(a)	50 App. 1003 (1st sentence).	Mar. 7, 1942, ch. 166, § 3, 56 Stat. 144; Dec. 24, 1942, ch. 828, § 1 (1st par.), Stat. 1092; July 1, 1944, ch. 371, § 3, 58 Stat. 680.
553(b)	50 App. 1003 (2d sentence, less provisos).	
553(c)	50 App. 1003 (1st proviso of 2d sentence).	
553(d)	50 App. 1003 (2d proviso of 2d sentence)	
553(e)	50 App. 1004.	Mar. 7, 1942, ch. 166, § 4, 56 Stat. 144; Dec. 24, 1942, ch. 828, § 1 (2d par.), 56 Stat. 1093; July 1, 1944, ch. 371, § 4, 58 Stat. 680.
553(f)	50 App. 1006 (1st sentence). 50 App. 1014 (as applicable to § 1006 (1st sentence)).	Mar. 7, 1942, ch. 166, § 6 (1st sentence and 2d sentence, as applicable to allotments); added Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093; Apr. 4, 1953, ch. 17, § 1(b), 67 Stat. 21; Aug. 14, 1964, Pub. L. 88-428, § 1(5), 78 Stat. 437.
553(g)	50 App. 1006 (2d sentence, as applicable to allotments).	
553(h)	50 App. 1007.	Mar. 7, 1942, ch. 166, § 7, 56 Stat. 145; Aug. 14, 1964, Pub. L. 88-428, § 1(6), 78 Stat. 437. Mar. 7, 1942, ch. 166, § 14 (as applicable to § 6 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words "a member of a uniformed service . . . in a missing status . . . he . . . under section 552 of this title" are substituted for "any person . . . under section 2 of this Act . . . his absence", for clarity and to conform to the definition in revised section 551(2) of this chapter. The words "except as otherwise herein provided" are omitted as unnecessary.

In subsection (b), the words "Secretary concerned, he, or his designee," are substituted for "head of the department concerned . . . head of the department concerned, or such subordinate as he may designate" to conform to the definition in 37 U.S.C. 101(5). The word "member" is substituted for "person" to conform to the definition in 37 U.S.C. 101(23).

In subsection (c), the words "in effect" are omitted as unnecessary. The words "member in a missing status" are substituted for "absent person" to conform to the definition in revised section 551(2) of this chapter.

In subsection (d), the words "United States" are substituted for "Government" to conform to the style of title 37. The word "member" is substituted for "person" to conform to the definition in 37 U.S.C. 101(23).

In subsection (e), the words "Secretary concerned, or his designee," are substituted for "head of the department concerned, or such subordinates as he may designate," to conform to the definition in 37 U.S.C. 101(5). The words "United States" are substituted for "Government" to conform to the style of title 37. The words "when he considers it" are substituted for "When circumstances are deemed to justify such action". The word "member" is substituted for "person".

In subsection (f), the words "When the Secretary concerned officially reports that a member in a missing status" are substituted for "When it is officially reported by the head of the department concerned that a person missing under the conditions specified in section 2 of this Act". The words "the payments of allotments authorized by subsections (a)–(d) of this section may, subject to section 552 of this title . . . until the date the Secretary concerned" are substituted for "the payments authorized by section 3 of this Act are, subject to the provisions of section 2 of this Act, authorized to be made for a period not to extend beyond the date of the receipt by the head of the department concerned". The words "the member" are substituted for "the missing person".

In subsection (g), the words "A member in a missing status" are substituted for "a person missing under the conditions specified in section 2 of this Act".

In subsection (h), the words "Secretary concerned" are substituted for "head of the department concerned." The words "a member on active duty" are substituted for "of persons in active service" to conform to the definitions in 37 U.S.C. 101(20) and (23). In clause (2), the words "heretofore or hereafter" are omitted as unnecessary.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 557 of this title; title 10 section 1524.

§ 554. Travel and transportation; dependents; household and personal effects; trailers; additional movements; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable

(a) In this section, "household and personal effects" and "household effects" may include, in addition to other authorized weight allowances, one privately owned motor vehicle

which may be shipped at United States expense. Under regulations prescribed by the Secretaries concerned, and in place of the transportation of household and personal effects, a dependent, who would otherwise be entitled to transportation of household and personal effects under this section, may transport a house trailer or mobile dwelling within and between the areas specified in section 409 of this title for use as a residence by one of the following means—

(1) transport it and be reimbursed by the United States;

(2) deliver it to an agent of the United States for transportation by the United States or by commercial means; or

(3) have it transported by commercial means, and be reimbursed by the United States.

If a trailer or dwelling is transported under clause (2) or (3) of this subsection, that transportation may include one privately owned motor vehicle which may be shipped at United States expense. Transportation, and incidental costs, authorized by this section shall be at United States expense without any cost limitation, and any payment authorized may be made in advance of the transportation concerned.

(b) Transportation (including packing, crating, drayage, temporary storage, and unpacking of household and personal effects) may be provided for the dependents and household and personal effects of a member of a uniformed service on active duty (without regard to pay grade) who is officially reported as dead, injured, ill, or absent for a period of more than 29 days in a missing status—

(1) to the member's official residence of record;

(2) to the residence of his dependent, next of kin, or other person entitled to custody of the effects, under regulations prescribed by the Secretary concerned; or

(3) on request of the member (if injured or ill), or his dependent, next of kin, or other person described in clause (2), to another location determined in advance or later approved by the Secretary concerned, or his designee.

When he considers it necessary, the Secretary concerned may, with respect to the household and personal effects of a member who is officially reported as absent for a period of more than 29 days in a missing status, authorize the nontemporary storage of those effects for a period of one year, or longer when justified. In addition, he may authorize additional movements of, and prescribe transportation for, the dependents and household and personal effects, or the dependents and house trailer or mobile dwelling, of a member who is officially reported as absent for a period of more than one year in a missing status.

(c) When a member described in subsection (b) of this section is in an injured or ill status, transportation of dependents and household and personal effects authorized by this section may be provided only when prolonged hospitalization or treatment is anticipated.

(d) Transportation requested by a dependent may be authorized under this section only if there is a reasonable relationship between the circumstances of the dependent and the requested destination.

(e) In place of the transportation for dependents authorized by this section, and after the travel is completed, the Secretary concerned may authorize—

(1) reimbursement for the commercial cost of the transportation; or

(2) a monetary allowance at the prescribed rate for all, or that part, of the travel for which transportation in kind is not furnished.

(f) The Secretary concerned may store the household and personal effects of a member described in subsection (b) of this section until proper disposition can be made. The cost of the storage and transportation (including packing, crating, drayage, temporary storage, and unpacking) of household and personal effects shall be charged against appropriations currently available.

(g) The Secretary concerned may, when he determines that there is an emergency and a sale would be in the best interests of the United States, provide for the public or private sale of motor vehicles and other bulky items of household and personal effects of a member described in subsection (b) of this section. Before a sale, and if practicable, a reasonable effort shall be made to determine the desires of the interested persons. The net proceeds received from the sale shall, under regulations prescribed by the Secretary concerned, be sent to the owner or other persons. If there are no such persons, or if they or their addresses are not known within one year from the date of sale, the net proceeds may be covered into the Treasury as miscellaneous receipts.

(h) Claims for net proceeds that are covered into the Treasury under subsection (g) of this section may be filed with the General Accounting Office by the rightful owners, their heirs or next of kin, or their legal representatives at any time before the end of a 5-year period from the date the proceeds are covered into the Treasury. When a claim is filed, the General Accounting Office shall allow or disallow it. A claim that is allowed shall be paid from the appropriation for refunding money erroneously received and covered. If a claim is not filed before the end of the 5-year period from the date the proceeds are covered into the Treasury, it is barred from being acted on by the courts or the General Accounting Office.

(i) This section does not amend or repeal—

(1) section 2575, 2733, 4712, 4713, 6522, 9712, or 9713 of title 10;

(2) section 507 of title 14; or

(3) chapter 171 of title 28.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 627, and amended Pub. L. 90-83, § 5(2), Sept. 11, 1967, 81 Stat. 221; Pub. L. 90-236, Jan. 2, 1968, 81 Stat. 764; Pub. L. 90-623, § 3(7), Oct. 22, 1968, 82 Stat. 1315; Pub. L. 92-477, § 1, Oct. 9, 1972, 86 Stat. 793; Pub. L. 93-548, § 3, Dec. 26, 1974, 88 Stat. 1743.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
554(a)	50 App. 1012 (14th sentence).	Mar. 7, 1942, ch. 166, § 12, 56 Stat. 146; Feb. 12, 1946, ch. 6, § 1(a), 60 Stat. 5; Aug. 29, 1951, ch. 356, § 1, 65 Stat. 207; Apr. 4, 1953, ch. 17, § 1(d), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, § 1(d), 71 Stat. 492; Aug. 14, 1964, Pub. L. 88-428, § 1(8), 78 Stat. 437.
554(b)	50 App. 1012 (1st sentence).	
	50 App. 1014 (as applicable to § 1012 (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 12 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
554(c)	50 App. 1012 (12th sentence).	
554(d)	50 App. 1012 (13th sentence).	
554(e)	50 App. 1012 (11th sentence).	
554(f)	50 App. 1012 (9th and 10th sentences).	
554(g)	50 App. 1012 (2d-4th sentences).	
554(h)	50 App. 1012 (5th-7th sentences).	
554(i)	50 App. 1012 (8th sentence).	

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words "Beginning June 25, 1950, and" are omitted as executed. The words "In this section" are substituted for "for the purposes of this section only, the terms". The words "not to exceed" are omitted as unnecessary. The words "outside the United States, or in Alaska or Hawaii" are substituted for "outside the continental limits of the United States or in Alaska" to conform to the definition in 37 U.S.C. 101(1).

In subsection (b), the words "Transportation . . . may be provided" are substituted for "may be moved". The words "a member of a uniformed service on active duty . . . or absent for a period of more than 29 days in a missing status" are substituted for "any person in active service . . . absent for a period of thirty days or more in any status listed in section 2 of this Act", for clarity and to conform to the definitions in 37 U.S.C. 101(20) and (23) and revised section 551(2) of this chapter. In clause (1), the words "the member's" are substituted for "for any such person". In clause (2), the words "under . . . prescribed . . . Secretary concerned" are substituted for "in accordance with . . . issued . . . head of the department concerned". In clause (3), the words "on request of the member" are substituted for "upon the person's application". The words "other person described in clause (2)" are substituted for "such . . . other person". The words "Secretary concerned, or his designee" are substituted for "head of the department concerned or by such person as he may designate".

In subsection (c), the words "a member described in subsection (b) of this section" are substituted for "the person". The words "transportation . . . authorized by this section" are substituted for "the movement . . . provided for herein". The words "provided . . . when" are substituted for "authorized . . . in cases where".

In subsection (d), the words "requested by a dependent may be authorized under . . . only" are substituted for "No . . . shall be authorized pursuant to . . . upon application by dependents unless". The words "condition and" are omitted as unnecessary.

In subsection (e), the words "In place . . . the Secretary concerned" are substituted for "In lieu . . . the head of the department concerned". In clause (1), the words "reimbursement for" are substituted for "the payment in money of amounts equal to". The words "in lieu of transportation", the second time they appear, are omitted as unnecessary. In clause (2), the words "at the prescribed rate" are substituted for "as authorized by law".

In subsection (f), the words "Secretary concerned" are substituted for "head of the department concerned". The words "a member described in subsection (b) of this section" are substituted for "the person". The words "such time as" are omitted as unnecessary.

In subsection (g), the words "Secretary concerned" are substituted for "head of the department concerned", in 50 App. U.S.C. 1012 (2nd and 4th sentences). The words "United States" are substituted for "Government"; and the words "a member described in subsection (b) of this section" are substituted for "the person", in 50 App. U.S.C. 1012 (2d sentence). The words "under . . . prescribed" are substituted for "in accordance with . . . issued", and the word "known" is substituted for "ascertainable", in 50 App. U.S.C. 1012 (4th sentence).

In subsection (h), the words "under subsection (g) of this section" are substituted for "under the authority of this section", in 50 App. U.S.C. 1012 (5th sentence).

In subsection (i), the words "the provisions of" are omitted as unnecessary. Clause (3) is substituted for "the Federal Tort Claims Act (60 Stat. 842-847), as amended," to reflect the correct citation of that Act.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-548, § 3(1)(A), added "ill," following "injured,".

Subsec. (b)(3). Pub. L. 93-548, § 3(1)(B), added "or ill" following "injured".

Subsec. (c). Pub. L. 93-548, § 3(2), added "or ill" preceding "status".

1972—Pub. L. 92-477, § 1(1), inserted in the section catchline reference to "trailers; additional movements;" following "household and personal effects;".

Subsec. (a). Pub. L. 92-477, § 1(2), authorized at Government expense without cost limitation and under prescribed regulations the transportation of house trailers or mobile dwellings, including a privately owned motor vehicle, in place of household and personal effects of members in a missing status.

Subsec. (b). Pub. L. 92-477, § 1(3), authorized additional movements of and transportation for dependents and household and personal effects, or dependents and house trailer or mobile dwelling of members in a missing status for more than one year.

1968—Subsec. (b). Pub. L. 90-623 substituted "29" for "twenty-nine".

Pub. L. 90-236 added the provision authorizing the nontemporary storage of the household and personal effects of a member who is officially reported as absent for a period of more than 29 days in a missing status.

1967—Subsec. (a). Pub. L. 90-83 struck out "when it is located outside the United States, or in Alaska or Hawaii" following "shipped at United States expense".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 4 of Pub. L. 93-548 provided that: "The amendments made by section 3 of this Act [amending this section] shall apply with respect to members of the uniformed services incapacitated by illness on or after January 1, 1974."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

§ 555. Secretarial review

(a) When a member of a uniformed service entitled to pay and allowances under section 552 of this title has been in a missing status, and the official report of his death or of the circumstances of his absence has not been received by the Secretary concerned, he shall, before the end of a 12-month period in that status, have the case fully reviewed. After that review and the end of the 12-month period in a missing status, or after a later review which shall be made when warranted by information received or other circumstances, the Secretary concerned, or his designee, may—

(1) if the member can reasonably be presumed to be living, direct a continuance of his missing status; or

(2) make a finding of death.

(b) When a finding of death is made under subsection (a) of this section, it shall include the date death is presumed to have occurred for the purpose of—

(1) ending the crediting of pay and allowances;

(2) settlement of accounts; and

(3) payment of death gratuities.

That date is—

(A) the day after the day on which the 12-month period in a missing status ends; or

(B) if the missing status has been continued under subsection (a) of this section, the day determined by the Secretary concerned, or his designee.

(c) For the sole purpose of determining status under this section, a dependent of a member on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 628.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
555(a)	50 App. 1005 (1st and 2d sentences).	Mar. 7, 1942, ch. 166, § 5, 56 Stat. 145; Dec. 24, 1942, ch. 828, § 1 (3d par.), 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88-426; § 1(4), 78 Stat. 437.
	50 App. 1014 (as applicable to § 1005 (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 5 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
555(b)	50 App. 1005 (less 1st and 2d sentences).	
555(c)	50 App. 1009(b) (as applicable to § 1005).	Mar. 7, 1942, ch. 166, § 9(b) (as applicable to § 5); added Aug. 29, 1957, Pub. L. 85-217, § 1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words "member of a uniformed service" are substituted for "person". The words "in a missing status" and "in that status" are substituted for "absence" in three places. The words "Secretary concerned" are substituted for "head of the department concerned" in two places. In the second sentence, the words "or his designee" are supplied on authority of 50 App. U.S.C. 1009 which is codified in part in revised section 556(a) of this chapter. In clause (1), the words "member" and "his" are substituted for "person's" and "person", respectively.

In subsection (b), the words "under subsection (a) of this section" are inserted for clarity. In clause (A), the words "day on which the 12-month period in a missing status ends" are substituted for "day of expiration of an absence of twelve months". In clause (B), the words "under subsection (a) of this section" are substituted for "as hereinbefore authorized". The words "Secretary concerned" are substituted for "head of the department concerned." The words "or his designee" are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter.

In subsection (c), the first sentence is substituted for 50 App. U.S.C. 1009(b) (1st 31 words, as applicable to § 1005). The words "Secretary concerned" are substituted for "head of the department concerned". The words "or his designee" are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter. The words "departments and agencies of the United States" are substituted for "departments of the Government" in view of the definition of "department" in 50 App. U.S.C. 1001(d). The words "This subsection does not entitle" are substituted for *"Provided,* That nothing in this section shall be construed as conferring . . . any right".

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 552, 553, 556, 557 of this title; title 10 section 701.

§ 556. Secretarial determinations

(a) The Secretary concerned, or his designee, may make any determination necessary to administer this chapter and, when so made, it is conclusive as to—

(1) death or finding of death;

(2) the fact of dependency under this chapter;

(3) the fact of dependency for the purpose of paying six months' death gratuities authorized by law;

(4) the fact of dependency under any other law authorizing the payment of pay, allowances, or other emoluments to enlisted members of the armed forces, when the payments are contingent on dependency;

(5) any other status covered by this chapter;

(6) an essential date, including one on which evidence or information is received by the Secretary concerned; and

(7) whether information received concerning a member of a uniformed service is to be construed and acted on as an official report of death.

(b) When the Secretary concerned receives information that he considers establishes conclusively the death of a member of a uniformed

service, he shall, notwithstanding any earlier action relating to death or other status of the member, act on it as an official report of death. After the end of the 12-month period in a missing status prescribed by section 555 of this title, the Secretary concerned, or his designee, shall, when he considers that the information received, or a lapse of time without information, establishes a reasonable presumption that a member in a missing status is dead, make a finding of death.

(c) The Secretary concerned, or his designee, may determine the entitlement of a member to pay and allowances under this chapter, including credits and charges in his account, and that determination is conclusive. An account may not be charged or debited with an amount that a member captured, beleaguered, or besieged by a hostile force may receive or be entitled to receive from, or have placed to his credit by, the hostile force as pay, allowances, or other compensation.

(d) The Secretary concerned, or his designee, may, when warranted by the circumstances, reconsider a determination made under this chapter, and change or modify it.

(e) When the account of a member has been charged or debited with an allotment paid under this chapter, the amount so charged or debited shall be recredited to the account of the member if the Secretary concerned, or his designee, determines that the payment was induced by fraud or misrepresentation to which the member was not a party.

(f) Except an allotment for an unearned insurance premium, an allotment paid from pay and allowances of a member for the period he is entitled to pay and allowances under section 552 of this title may not be collected from the allottee as an overpayment when it was caused by delay in receiving evidence of death. An allotment payment for a period after the end of entitlement to pay and allowances under this chapter, or otherwise, which was caused by delay in receiving evidence of death, may not be collected from the allottee or charged against the pay of the deceased member.

(g) The Secretary concerned, or his designee, may waive the recovery of an erroneous payment or overpayment of an allotment to a dependent if he considers recovery is against equity and good conscience.

(h) For the sole purpose of determining status under this section, a dependent of a member of a uniformed service on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 629.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
556(a)	50 App. 1009(a) (1st and 2d sentences).	Mar. 7, 1942, ch. 166, § 9(a) (less 5th and last sentences); added July 1, 1944, ch. 371, § 5, 58 Stat. 680; Apr. 4, 1953, ch. 7, § 1(c), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, § 1(c), 71 Stat. 492.
	50 App. 1010.	Mar. 7, 1942, ch. 166, § 10, 56 Stat. 145; July 1, 1944, ch. 371, § 6, 58 Stat. 681; Aug. 14, 1964, Pub. L. 88-428, § 1(7), 78 Stat. 437.
556(b)	50 App. 1009(a) (3d and 4th sentences).	
556(c)	50 App. 1009(a) (6th sentence, less last proviso).	
	50 App. 1014 (as applicable to § 1009(a) (1st proviso of 6th sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 9(a) (1st proviso of 6th sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
556(d)	50 App. 1009(a) (7th sentence).	
556(e)	50 App. 1009(a) (last proviso of 6th sentence).	
556(f)	50 App. 1009(a) (8th sentence).	
556(g)	50 App. 1009(a) (9th sentence).	
556(h)	50 App. 1009(b) (as applicable to § 1009).	Mar. 7, 1942, ch. 166, § 9(b) (as applicable to § 9); added Aug. 29, 1957, Pub. L. 85-217, § 1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words "Secretary concerned, or his designee," are substituted for "head of the department concerned, or such subordinate as he may designate,". The words "for the purposes of this Act" are omitted as unnecessary. The words "final and" in 50 App. U.S.C. 1010 are omitted as unnecessary and for consistency with 50 App. U.S.C. 1009(a) (1st sentence). In clause (2), the words "under this chapter" are substituted for "under the provisions of this Act". In clause (4), the words "enlisted members of the armed forces" are substituted for "enlisted personnel in the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States" to conform to the definition in 37 U.S.C. 101(4). In clause (5), the words "covered by this chapter" are substituted for "dealt with by this Act". In clause (6), the words "by the Secretary concerned" are substituted for "in such department or by the head thereof". In clause (7), the word "member" is substituted for "person".

In subsection (b), the words "Secretary concerned . . . a member of a uniformed service, he shall . . . the member, act on it" are substituted for "any person . . . department concerned, action shall be taken thereon . . . such person". In the second sentence, the words "After the end of the 12-month period in a missing status" are substituted for "If the twelve months' absence . . . has expired". The words "the Secretary concerned, or his designee" are inserted for clarity. The words "a member" are substituted for "any person". The words "missing status" are substituted for "missing or other status" in view of the definition in revised section 551(2) of this chapter. The words "is dead" are substituted for "is no longer alive" for consistency with references in this section to "death".

In subsection (c), the words "Secretary concerned, or his designee . . . may . . . a member . . . under this chapter" are substituted for "head of the department concerned, or by such subordinate as he may designate . . . are authorized to . . . any person . . . under provisions of this Act". The words "a member" are substituted for "any person". The words "captured, beleaguered, or beseiged by a hostile force" are substituted for "in the hands of a hostile force" on authority of 50 App. U.S.C. 1014.

In subsection (d), the words "Secretary concerned, or his designee" are substituted for "head of the department concerned, or such subordinate as he may designate". The words "under this chapter" are substituted for "authorized to be made by this Act".

In subsection (e), the words "a member . . . allotment paid under this chapter" are substituted for "any person . . . allotments paid pursuant to this Act". The words "the member if the Secretary concerned, or his designee . . . the payment . . . the member" are substituted for "such person's . . . in any case in which . . . the head of the department concerned, or such subordinate as he may designate . . . such person".

In subsection (f), the words "may not be collected" are substituted for "shall not be subject to collection" in two places. The word "member" is substituted for "person".

In subsection (g), the words "Secretary concerned, or his designee," are substituted for "head of the department concerned, or such subordinate as he may designated,".

In subsection (h), the first sentence is substituted for 50 App. U.S.C. 1009(b) (1st 33 words, as applicable to § 1009). The words "Secretary concerned" are substituted for "head of the department concerned." The words "or his designee" are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter. The words "departments and agencies of the United States" are substituted for "departments of the Government" in view of the definition of "department" in 50 App. U.S.C. 1001(b). The words "This subsection does not entitle" are substituted for *"Provided,* That nothing in this section shall be construed as conferring . . . any right".

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 552 of this title; title 10 section 701; title 26 sections 2, 692; title 38 sections 1701, 1801, 2001.

§ 557. Settlement of accounts

(a) The Secretary concerned, or his designee, may settle the account of—

(1) a member of a uniformed service for whose account payments have been made under sections 552, 553, and 555 of this title; and

(2) a survivor of a casualty to a ship, station, or military installation which results in the loss or destruction of disbursing records.

That settlement is conclusive on the accounting officers of the United States in settling the accounts of disbursing officers.

(b) Payment or settlement of an account made pursuant to a report, determination, or finding of death may not be recovered or reopened because of a later report or determination which fixes a date of death. However, an account shall be reopened and settled on the basis of a date of death so fixed which is later than that used as a basis for earlier settlements.

(c) In the settlement of his accounts, a disbursing officer is entitled, if there is no fraud or criminality by him, to credit for an erroneous payment or overpayment he made in carrying out this chapter, except section 558. Unless there is fraud or criminality by him, recovery may not be made from a civilian officer or employee or a member of a uniformed service who authorizes a payment under this chapter, except section 558.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 630.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
557(a).....	50 App. 1011.	Mar. 7, 1942, ch. 166, § 11, 56 Stat. 146.
557(b).....	50 App. 1009(a) (5th sentence).	Mar. 7, 1942, ch. 166, § 9(a) (5th and last sentences); added July 1, 1944, ch. 371, § 5, 58 Stat. 680; Aug. 29, 1957, Pub.L. 85-217, § 1(c), 71 Stat. 492.
557(c).....	50 App. 1009(a) (last sentence).	

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words "Secretary concerned, or his designee," are substituted for "head of the department concerned, or such person as he may designate,". The words "a member of a uniformed service" are substituted for "persons". The words "United States" are substituted for "Government".

In subsection (c), the words "in carrying out this chapter, except section 558" are substituted for "in carrying out the provisions of this Act, except sections 13, 16, 17, and 18", since sections 16 and 17 are scheduled for repeal (see Table II) and section 18 was previously repealed. The words "under this chapter, except section 558" are substituted for "under such provisions" for the reasons stated in the preceding sentence.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

§ 558. Income tax deferment

Notwithstanding any other provision of law, a Federal income tax return of, or the payment of a Federal income tax by, a member of a uniformed service who, at the time the return or payment would otherwise become due, is in a missing status, does not become due until the earlier of the following dates—

(1) the fifteenth day of the third month in which he ceased (except by reason of death or incompetency) being in a missing status, unless before the end of that fifteenth day he is again in a missing status; or

(2) the fifteenth day of the third month after the month in which an executor, administrator, or conservator of the estate of the taxpayer is appointed.

That due date is prescribed subject to the power of the Secretary of the Treasury or his delegate to extend the time for filing the return or paying the tax, as in other cases, and to assess and collect the tax as provided by sections 6851, 6861, and 6871 of title 26 in cases in

which the assessment or collection is jeopardized and in cases of bankruptcy or receivership.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 631.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
558.....	50 App. 1013.	Mar. 7, 1942, ch. 166, § 13, 56 Stat. 146; Aug. 8, 1947, ch. 515, § 6, 61 Stat. 918; Aug. 14, 1964, Pub. L. 88-428, § 1(9), 78 Stat. 437.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

The words "in the case of any taxable year beginning after December 31, 1940" are omitted as unnecessary.

The words "as defined in section 101(3) and (23) of title 37, United States Code" are omitted as unnecessary since the revised section is codified in title 37. The words "in a missing status" are substituted for "absent from his duty station under the conditions specified in section 2 of the Act" to conform to the definition in revised section 551(3) of this chapter and in view of the provisions of revised section 552 establishing the entitlement of a member in a missing status to receive pay and allowances or have them credited to his account. Reference to "title 26" is substituted for "Internal Revenue Code of 1954".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 557 of this title.

CHAPTER 11—PAYMENTS TO MENTALLY INCOMPETENT PERSONS

Sec.
601. Applicability.
602. Payments: designation of persons to receive amounts due.
603. Regulations.
604. Determination of Secretary final.

§ 601. Applicability

This chapter applies to—

(1) members of a uniformed service who are on active duty (other than for training) or who are on a retired list of that service; and

(2) members of the Fleet Reserve or Fleet Marine Corps Reserve.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 483.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
601.....	37:351.	June 21, 1950, ch. 342, § 1, 64 Stat. 249.

The words "on active duty (other than for training)" are substituted for the words "on the active . . . list" to conform to longstanding administrative construction, and because there is no "active list" in the case of many of the uniformed services named, but only for certain regular component of those services, e.g., the "Regular Army" and the "Regular Air Force". The words "a retired list of that service" are substituted for the words "retired list", since there is more than one retired list for many of the services named. (See sections 1376, 3966, and 8966 of title 10, for example.)

The words "members of the Reserve components of the respective services entitled to Federal pay either on the active or any retired list of said services" are omitted as covered by clause (1), since members of the reserve components are members of the uniformed services concerned. The word "transferred" is omitted as surplusage.

§ 602. Payments: designation of person to receive amounts due

(a) Active duty pay and allowances, amounts due for accrued or accumulated leave, or retired or retainer pay, that are otherwise payable to a member to whom this chapter applies and who, in the opinion of a board of medical officers or physicians, is mentally incapable of managing his affairs, may be paid for that member's use or benefit to any person designated by the Secretary concerned, or by any officer to whom he delegates his authority under this section, without the appointment in judicial proceedings of a committee, guardian, or other legal representative.

(b) The board shall consist of at least three qualified medical officers or physicians, one of whom is specially qualified in the treatment of mental disorders, appointed from available medical officers or physicians under his jurisdiction by the head of whichever of the following is providing medical treatment for the member, or by a person designated by that head—

(1) Department of the Army;

(2) Department of the Navy;

(3) Department of the Air Force;

(4) Department of Health, Education, and Welfare; or

(5) Veterans' Administration.

If the hospitalization or medical care of the member is not provided by the United States, the board shall be appointed by the Secretary of the department having jurisdiction of the member.

(c) A payment made to a person who is designated under this section discharges the obligation of the United States as to the amount paid.

(d) A person serving in a legal, medical, fiduciary, or other capacity, may not demand or accept a fee, commission, or other charge for any service performed under this chapter.

(e) This section does not apply in any case in which a legal committee, guardian, or other representative has been appointed by a court of competent jurisdiction, except as to payments made before the paying agency of the department concerned receives notice of that appointment.

(f) A person who is designated to receive payments under this section shall furnish satisfactory assurance that the amounts received by him will be applied to the use and benefit of the incompetent member, and, where the payments may reasonably be expected to be more than $1,000, shall provide a suitable bond to be paid for out of amounts due the incompetent member.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 483.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
602(a)	37:352 (1st sentence, less 31 words before provisos and less provisos).	June 21, 1950, ch. 342, §§ 2, 3 (less 1st 28 words), 64 Stat. 249; Aug. 7, 1959, Pub. L. 86-145, § 1, 73 Stat. 297.
602(b)	37:352 (last proviso of 1st sentence, 2d sentence, and last sentence).	
602(c)	37:352 (31 words before provisos of 1st sentence).	
602(d)	37:352 (1st proviso of 1st sentence).	
602(e)	37:352 (2d proviso of 1st sentence).	
602(f)	37:353 (less 1st 28 words).	

In subsection (a), the words "or persons" and "or officers" are omitted, since, under section 1 of title 1, "words importing the singular include and apply to several persons, parties, or things". The words "to whom he delegates his authority under this section" are substituted for the words "as the respective Secretaries may designate for such purposes" to obviate confusion between persons "designated to receive payments and those who perform the Secretary's functions under the section. The words "the necessity of" are omitted as surplusage.

In subsection (c), the words "or persons" are omitted for the reasons given in the preceding paragraph. The words "discharges the obligation" are substituted for the words "shall constitute a complete discharge".

In subsection (d), the words "under the authority of" are omitted as surplusage.

In subsection (e), the words "have been" and "including a requirement" are omitted as surplusage. The words "or persons" are omitted for the reason stated in the explanation under subsection (a), above.

CROSS REFERENCES

Finality of determination of Secretary under this section, see section 604 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 604 of this title.

§ 603. Regulations

The Secretary concerned and the Administrator of Veterans' Affairs shall prescribe regulations necessary to carry out this chapter.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 484.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
603	37:353 (1st 28 words).	June 21, 1950, ch. 342, § 3 (1st 28 words), 64 Stat. 249; Aug. 7, 1959, Pub. L. 86-145, § 2, 73 Stat. 297.

The words "effectively" and "provisions of" are omitted as surplusage.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

§ 604. Determination of Secretary final

The determination as to the person authorized to receive a payment under section 602 of this title is final and is not subject to review by an official of the United States or a court.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 89-718, § 66, Nov. 2, 1966, 80 Stat. 1123.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
604	37:354.	June 21, 1950, ch. 342, § 4, 64 Stat. 250.

The words "or persons" are omitted for the reasons stated in the revision note for section 602(a) of this revised title. The words "made by the respective secretaries, or by their duly designated subordinates" and the words "and conclusive" are omitted as surplusage.

AMENDMENTS

1966—Pub. L. 89-718 struck out "the" which preceded "Secretary" in the section catchline.

CHAPTER 13—ALLOTMENTS AND ASSIGNMENTS OF PAY

Sec.
701. Members of Army or Air Force; contract surgeons.
702. Allotments: officers of Navy or Marine Corps.
703. Allotments: members of Coast Guard.
704. Allotments: officers of Public Health Service.
705. Assignments: enlisted members of naval service.
706. Commissioned officers of Environmental Science Services Administration.
707. Allotments: members of the National Guard.

AMENDMENTS

1974—Pub. L. 93-289, § 11(c), May 24, 1974, 88 Stat. 173, added item 707.

1966—Pub. L. 89-718, § 49(a)(3), Nov. 2, 1966, 80 Stat. 1121, substituted "Environmental Science Services Administration for "Coast and Geodetic Survey" in item 706.

§ 701. Members of Army or Air Force; contract surgeons

(a) Under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, a commissioned officer of the Army or the Air Force may transfer or assign his pay account, when due and payable.

(b) A contract surgeon, or contract dental surgeon, of the Army or the Air Force, on duty in Alaska, Hawaii, the Philippine Islands, or Puerto Rico, may transfer or assign his pay account, when due and payable, under the regulations prescribed under section (a) of this section.

(c) An enlisted member of the Army or the Air Force may not assign his pay, and if he does so, the assignment is void.

(d) The Secretary of the Army or the Secretary of the Air Force, as the case may be, may allow a—

(1) member of the Army or the Air Force; or

(2) contract surgeon of the Army or the Air Force;

to make allotments from his pay for the support of his relatives, or for any other purpose that the Secretary concerned considers proper. If an allotment made under this subsection is

paid to the allottee before the disbursing officer receives a notice of discontinuance from the officer required by regulation to furnish the notice, the amount of the allotment shall be credited to the disbursing officer. If an allotment is erroneously paid because the officer required by regulation to so report failed to report the death of the allotter or any other fact that makes the allotment not payable, the amount of the payment not recovered from the allottee shall, if practicable, be collected by the Secretary concerned, from the officer who failed to make the report.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 89-718, § 67, Nov. 2, 1966, 80 Stat. 1123.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
701(a)	10:3689(a).	[None.]
	10:8689(a).	[None.]
701(b)	10:3689(b)	[None.]
	10:8689(b).	[None.]
701(c)	10:3689(c).	[None.]
	10:8689(c).	[None.]
701(d)	10:3689(d).	[None.]
	10:8689(d).	[None.]

AMENDMENTS

1966—Subsec. (d). Pub. L. 89-718 substituted "Secretary concerned" for "Chief of Finance (in cases involving the Army) or by the Secretary of the Air Force" in the provision for the collection erroneously paid allotments.

§ 702. Allotments: officers of Navy or Marine Corps

The Secretary of the Navy, under regulations prescribed by him, may permit an officer of the Navy or Marine Corps to make allotments of his pay—

(1) for the support of his family or relatives;

(2) for his own savings; or

(3) for other purposes.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 484.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
702	10:6146.	[None.]

The words "Navy or Marine Corps" are substituted for the words "naval service", since the words "member of the naval service" as defined in section 5001(a)(3) of title 10 mean a member of the Navy or Marine Corps.

§ 703. Allotments: members of Coast Guard

Members of the Coast Guard may, under regulations prescribed by the Secretary of Transportation, make allotments from their pay and allowances.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 90-623, § 3(1), Oct. 22, 1968, 82 Stat. 1314.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
703	14:464.	[None.]

The words "members of the Coast Guard" are substituted for the words "officers and enlisted men", since together they compose the entire membership.

AMENDMENTS

1968—Pub. L. 90-623 substituted "Secretary of Transportation" for "Secretary of the Treasury".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

§ 704. Allotments: officers of Public Health Service

Commissioned officers of the Public Health Service who are on active duty may, under regulations prescribed by the President, make allotments from their pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
704	42:210(b) (1st sentence).	July 1, 1944, ch. 373, § 209(c) (1st sentence), 58 Stat. 686; redesignated as section 208, Feb. 28, 1948, ch. 83, § 5(a), 62 Stat. 40; redesignated as subsection (b), Oct. 12, 1949, ch. 681, § 521(b) (as applicable to section 208(b) (1st sentence) of the Act of July 1, 1944), 63 Stat. 834; restated Aug. 9, 1950, ch. 654, § 1, 64 Stat. 426; Apr. 8, 1960, Pub. L. 86-415, § 5(b) (1st sentence), 74 Stat. 34.

DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Secretary of Health, Education, and Welfare, see section 3 of Ex. Ord. No. 11140, Jan. 30, 1964 29 F.R. 1637, set out as a note under section 202 of Title 42, The Public Health and Welfare.

§ 705. Assignments: enlisted members of naval service

Each assignment of pay due an enlisted member of the Navy or Marine Corps and each power of attorney or other authority to draw, receipt for, or transfer that pay, is void, unless attested by the member's commanding officer and the disbursing officer having custody of the member's pay record. An assignment of pay shall state the date when the transfer of pay to the assignee is to begin.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
705.....	10:6142.	[None.]

The words "Navy or Marine Corps" are substituted for the words "naval service", since the words "member of the naval service" as defined in section 5001(a)(3) of title 10 mean a member of the Navy or Marine Corps.

§ 706. Commissioned officers of Environmental Science Services Administration

Under regulations prescribed by the Secretary of Commerce, commissioned officers of the Environmental Science Services Administration may make allotments or assignments of their pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485; Pub. L. 89-718, § 49(a)(1), Nov. 2, 1966, 80 Stat. 1121.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
706.....	33:862.	Mar. 4, 1907, ch. 2918, § 1 (10th par. under "Coast and Geodetic Survey"); restated June 21, 1955, ch. 172, § 1; restated Sept. 26, 1961, Pub. L. 87-304, 75 Stat. 665.

AMENDMENTS

1966—Pub. L. 89-718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey" in both the section catchline and text.

CHANGE OF NAME

The Commissioned Officer Corps of the Environmental Science Services Administration was changed to the Commissioned Officer Corps of the National Oceanic and Atmospheric Administration, see Reorg. Plan No. 4 of 1970, § 4(d), eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of the Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

In order to implement the provisions of Reorganization Plan No. 4, of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, the following organizational names appearing in chapter IX of subtitle B of Title 15, Code of Federal Regulations, which covers the administration of the National Oceanic and Atmospheric Administration, were changed by order of the Acting Associate Administrator, 35 F.R. 19249, Dec. 19, 1970, as follows: Environmental Science Services Administration to National Oceanic and Atmopsheric Administration (ESSA to NOAA); Coast and Geodetic Survey to National Ocean Survey; and Weather Bureau to National Weather Service.

§ 707. Allotments: members of the National Guard

(a)[1] The Secretary of the Army or the Secretary of the Air Force, as the case may be, may allow a member of the National Guard who is not on active duty to make allotments from his pay under sections 204 and 206 of this title for the payment of premiums under a group life insurance programs sponsored by the military department of the State in which such member holds his National Guard membership or by the National Guard association of such State if the State or association concerned has agreed in writing to reimburse the United States for all costs incurred by the United States in providing for such allotments. The amount of such costs and procedures for reimbursements shall be determined by the Secretary of Defense and his determination shall be conclusive. All amounts of reimbursements for such costs received by the United States from a State or an association shall be credited to the appropriations or funds against which charges have been made for such costs.

(Added Pub. L. 93-289, § 11(a), May 24, 1974, 88 Stat. 172.)

LIABILITY OF UNITED STATES FOR LOSSES OR DAMAGES

Section 11(b) of Pub. L. 93-289 provided that: "The United States shall not be liable for any losses or damages suffered by any person as the result of any error made by any officer or employee of the United States in administering the allotment program authorized under subsection (a) [this section]."

CHAPTER 15—PROHIBITIONS AND PENALTIES

Sec.
801. Restriction on payment to certain officers.
802. Forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs.
803. Commissioned officers of Army or Air Force: forfeiture of pay when dropped from rolls.
804. Enlisted members of Army or Air Force: pay and allowances not to accrue during suspended sentence of dishonorable discharge.
805. Sale of pay by members of naval service to be discouraged by commanding officer.

§ 801. Restriction on payment to certain officers

(a) An officer of the Regular Navy or the Regular Marine Corps, other than a retired officer, may not be employed by a person furnishing naval supplies or war materials to the United States. If such an officer is so employed, he is not entitled to any payment from the United States during that employment.

[(b) Repealed. Pub. L. 89-718, § 68(1), Nov. 2, 1966, 80 Stat. 1123.]

(c) Payment may not be made from any appropriation, for a period of three years after his name is palced on that list, to an officer on a retired list of the Regular Army, the Regular Navy, the Regular Air Force, the Regular

[1] So in original. No subsec. (b) has been enacted.

Marine Corps, the Regular Coast Guard, the Environmental Science Services Administration, or the Public Health Service, who is engaged for himself or others in selling, or contracting or negotiating to sell, supplies or war materials to an agency of the Department of Defense, the Coast Guard, the Environmental Science Services Administration, or the Public Health Service.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485; Pub. L. 89-718, §§ 49(a)(1), 68, Nov. 2, 1966, 80 Stat. 1121, 1123.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
801(a)	10:6112(a).	[None.]
801(b)	10:6112 (less (a)).	[None.]
801(c)	37:323.	Nov. 1, 1951, ch. 664, § 1309, 65 Stat. 737.
	5:59c.	Aug. 7, 1953, ch. 340, § 1309 67 Stat. 437.

In subsection (c), the words "in any Act" are omitted as surplusage. The words "his name is placed on that list" are substituted for the word "retirement", to conform to the words "on any retired list", since an officer may be on a retired list under chapter 67 of title 10 without being formally retired.

AMENDMENTS

1966—Subsec. (b). Pub. L. 89-718, § 68(1), struck out subsec. (b) which provided that retired officers of the Regular Navy or Regular Marine Corps engaged for themselves or others in selling, or contracting or negotiating to sell, naval supplies or war materials to the Department of the Navy, would not be entitled to any payment from the United States while so engaged.

Subsec. (c). Pub. L. 89-718, §§ 49(a)(1), 68(2), substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey", and "three years" for "two years."

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of the Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

In order to implement the provisions of Reorganization Plan No. 4, of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, the following organizational names appearing in chapter IX of subtitle B of Title 15, Code of Federal Regulations, which covers the administration of the National Oceanic and Atmospheric Administration, were changed by order of the Acting Associate Administrator, 35 F.R. 19249, Dec. 19, 1970, as follows: Environmental Science Services Administration to National Oceanic and Atmospheric Administration (ESSA to NOAA); Coast and Geodetic Survey to National Ocean Survey; and Weather Bureau to National Weather Service.

§ 802. Forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs

A member of the Army, Navy, Air Force, or Marine Corps, on active duty who is absent from his regular duties for a continuous period of more than one day because of disease that is directly caused by and immediately follows his intemperate use of alcoholic liquor or habit-forming drugs is not entitled to pay for the period of that absence. However, a member whose pay is forfeited for more than one month is entitled to $5 for personal expenses for each full month that his pay is forfeited. Determinations of periods and causes of absence under this section shall be made as prescribed by the Secretary concerned, and are final.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
802	10:3632.	[None.]
	10:6111.	[None.]
	10:8632.	[None.]

The words "Navy . . . or Marine Corps" are substituted for the words "naval service", in section 6111 of title 10, to conform to the definition of that term in section 5001(a)(3) of title 10. The words "and conclusive" are omitted as surplusage.

§ 803. Commissioned officers of Army or Air Force: forfeiture of pay when dropped from rolls

A commissioned officer of the Army or the Air Force who is dropped from the rolls under section 1161(b) of title 10 for absence without authority for three months forfeits all pay due or to become due.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
803	10:3633.	[None.]
	10:8633.	[None.]

§ 804. Enlisted members of Army or Air Force: pay and allowances not to accrue during suspended sentence of dishonorable discharge

Pay and allowances do not accrue to an enlisted member of the Army or the Air Force who is in confinement under sentence of dishonorable discharge, while the execution of the sentence to discharge is suspended.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
804	10:3636.	[None.]
	10:8636.	[None.]

§ 805. Sale of pay by members of naval service to be discouraged by commanding officer

The commanding officer of a naval vessel shall discourage each member of the crew from selling any part of his pay and may not attest a power of attorney for the transfer of pay unless he is satisfied that the power is not granted in consideration of money given for the purchase of pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
805	10:6143.	[None.]

The word "naval" is inserted before the word "vessel" for clarity.

CHAPTER 17—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.
901. Wartime pay of officer of armed force exercising command higher than his grade.
902. Pay of crews of wrecked or lost naval vessels.
903. Retired members recalled to active duty; former members.
904. Officers of Navy or Marine Corps promoted under chapter 545 of title 10: effective date of beginning of pay and allowances.
905. Officers of Navy or Marine Corps not covered by section 904 of this title: effective date of beginning of pay and allowances.
906. Extension of enlistment: effect on pay and allowances.
907. Enlisted members appointed as officers; pay and allowances stabilized.

AMENDMENTS

1970—Pub. L. 91-484, § 1(2), Oct. 21, 1970, 84 Stat. 1084, added item 907.

§ 901. Wartime pay of officer of armed force exercising command higher than his grade

In time of war, an officer of an armed force who is serving with troops operating against an enemy and who exercises, under assignment in orders issued by competent authority, a command above that pertaining to his grade, is entitled to the pay and allowances (not above that of pay grade O-7) appropriate to the command so exercised.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
901	37:235a.	Apr. 26, 1898, ch. 191, § 7 (less last proviso), 30 Stat. 365.

Applicability of the source law to the Air Force is based on Transfer Order No. 25(zzz), of the Secretary of Defense, dated October 14, 1948. Its applicability, other than to the Army and the Air Force, is based upon an opinion of the Judge Advocate General of the Navy, JAG 135: DDC; dmt.; 4229, dated July 29, 1960. The words "(but not above that of pay grade O-7)" are substituted for section 235a (proviso) of existing title 37.

§ 902. Pay of crews of wrecked or lost naval vessels

(a) When the accounts of the disbursing officer of a naval vessel are lost as a result of the destruction of the vessel, his return for the last month may, unless there is official evidence to the contrary, be used in computing later credits to and settling accounts of persons, other than officers, carried on his accounts. If the return for the last month has not been made, the pay accounts may be settled on principles of equity and justice.

(b) When a naval vessel is lost or has not been heard from for so long that her loss may be presumed, the General Accounting Office, under the direction of the Secretary of the Navy, may fix the date of loss of the vessel for the purpose of settling the accounts of persons aboard other than officers.

(c) When the crew of a naval vessel is separated from that vessel because of her wreck, loss, or destruction, the pay and emoluments of those officers and enlisted members that the Secretary considers (because of the sentence of a court-martial or the finding of a court of inquiry, or by other satisfactory evidence) to have done their utmost to save the vessel and, after the wreck, loss, or destruction, to have behaved themselves according to the discipline of the Navy, continue and shall be paid to them until their discharge or death, whichever is earlier.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
902(a)	10:6144.	[None.]
902(b)	10:6145.	[None.]
902(c)	37:243.	R.S. 1574.

In subsections (a) and (c), the words "naval vessel" are substituted for the words "any vessel of the United States", in section 243 of existing title 37, and the words "vessel in the employ of the United States", in section 6144 of title 10, for clarity and to conform to subsection (b).

In subsection (c), the word "continues" is substituted for the words "go on". The words "whichever is earlier" are inserted for clarity. The words "or the findings of a" are inserted since a court of inquiry cannot impose a sentence.

§ 903. Retired members recalled to active duty; former members

A retired member or former member of a uniformed service, or a member of the Fleet Reserve or Fleet Marine Corps Reserve, who is serving on active duty is entitled to the pay and allowances to which he is entitled, under this title, for the grade, rank, or rating in which he is serving. In addition, while on active duty, he is entitled to the pay and allowances, while on leave of absence or while sick, of a member of a uniformed service of similar grade, rank, or rating who is entitled to basic pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 487.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
903	37:314.	Oct. 12, 1949, ch. 681, § 514, 63 Stat. 831.

The word "rating" is inserted for clarity. The words "is entitled to" are substituted for the words "shall . . . be entitled to receive and have the same . . . rights". The last 41 words of section 314 of existing title 37 are omitted, since the sections mentioned therein were repealed by section 53(b) of the Act of August 10, 1956, ch. 1041 (70A Stat. 646). The subject of death benefits and entitlement thereto is now covered by chapter 75 of title 10.

§ 904. Officers of Navy or Marine Corps promoted under chapter 545 of title 10: effective date of beginning of pay and allowances

(a) An officer who is promoted under any of sections 5751–5773 of title 10 is entitled to the pay and allowances of the grade to which promoted from the date of the occurrence of the vacancy that he was promoted to fill, if he is in one of the following categories—

(1) male line officers of the Navy not restricted in the performance of duty;

(2) male line officers of the Navy designated for engineering duty, aeronautical engineering duty, or special duty promoted to the grade of rear admiral;

(3) male line officers of the Navy designated for engineering duty, aeronautical engineering duty, or special duty who are promoted to the grade of lieutenant commander to fill vacancies in the combined grades of lieutenant commander, commander, and captain and whose promotion was delayed because there were no vacancies for them at the time when they would otherwise have been eligible for promotion under section 5769(b) of title 10;

(4) male line officers of the Navy designated for limited duty;

(5) women line officers of the Navy;

(6) male officers of the Marine Corps not restricted in the performance of duty;

(7) male officers of the Marine Corps designated for supply duty promoted to the grade of brigadier general;

(8) male officers of the Marine Corps designated for supply duty who are promoted to the grade of major to fill vacancies in the combined grades of major, lieutenant colonel, and colonel and whose promotion was delayed because there were no vacancies for them at the time when they would otherwise have been eligible for promotion under section 5769(b) of title 10;

(9) male officers of the Marine Corps designated for limited duty;

(10) women officers of the Marine Corps; or

(11) staff corps officers of the Navy promoted to the grade of rear admiral.

(b) A male line officer of the Navy designated for engineering duty, aeronautical engineering duty, or special duty, or a male officer of the Marine Corps designated for supply duty, if not in a category listed in subsection (a) of this section, is entitled, when promoted under any of sections 5751–5773 of title 10, to the pay and allowances of the grade to which promoted from the date on which he became eligible for promotion to that grade.

[(c) Repealed. Pub. L. 90–130, § 3(2)(C), Nov. 8, 1967, 81 Stat. 383.]

(d) A male staff corps officer or a woman staff corps officer who is promoted to a grade below rear admiral under any of sections 5751–5773 of title 10 is entitled to the pay and allowances of the grade to which promoted from the date on which his running mate in that grade became eligible for promotion to that grade.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 487; Pub. L. 90–130, § 3(2), Nov. 8, 1967, 81 Stat. 383; Pub. L. 90–623, § 3(8), Oct. 22, 1968, 82 Stat. 1315.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
904(a)	10:5775(a).	[None.]
904(b)	10:5775(b).	[None.]
904(c)	10:5775(c).	[None.]
904(d)	10:5775(d).	[None.]
904(e)	10:5775 (less (a)–(d)).	[None.]

REFERENCES IN TEXT

Section 5759 of title 10, included within the reference to sections 5751–5773 of title 10 in subsecs. (a), (b), (d), was repealed by Pub. L. 87–123, § 5(17), Aug. 3, 1961, 75 Stat. 266.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–623 added "or" at the end of cl. 10.

1967—Subsec. (a). Pub. L. 90–130, § 3(2)(A), (B), substituted "5773" for "5774" in the material preceding clause (1), struck out provisions of clause (5) which had required women line officers of the Navy to have been on the active list and to have been promoted to the grade of commander or lieutenant commander, and struck out provisions of clause (10) which had required women officers of the Marine Corps to have been on the active list and to have been promoted to the grade of lieutenant colonel or major.

Subsec. (b). Pub. L. 90–130, § 3(2)(A), substituted "5773" for "5774".

Subsec. (c). Pub. L. 90–130, § 3(2)(C), struck out subsec. (c) which provided that women line officers on the active list of the Navy promoted to the grade of lieutenant and women officers on the active list of the Marine Corps promoted to the grade of captain under any of sections 5751–5774 of Title 10 were entitled to pay and allowances of the grade to which promoted from July 1, following the date on which the President approved the report of the selection board that recommended her for promotion.

Subsec. (d) Pub. L. 90–130, § 3(2)(A), (D), substituted "5773" for "5774" and struck out reference to subsec. (e) of this section.

Subsec. (e). Pub. L. 90–130, § 3(2)(C), struck out subsec. (e) which provided that officers in the Nurse Corps promoted to the grade of captain or commander under any of sections 5751–5774 of Title 10 were entitled to the pay and allowances of the grade to which promoted from the date of the occurrance of the vacancy that he was promoted to fill or the date on which the President approved the report of the selection board that recommended him for promotion, whichever was later.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct.

22, 1968, see section 6 of Pub. L. 90-623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

§ 905. Officers of Navy or Marine Corps not covered by section 904 of this title: effective date of beginning of pay and allowances

(a) The pay of an officer of the Regular Navy or the Regular Marine Corps begins on the date he accepts his initial appointment, except that—

(1) the pay of an officer required to give an official bond begins on the date the bond is approved by proper authority; and

(2) the pay of an officer commissioned within six months after his graduation from the United States Naval Academy begins on the date of rank stated in his commission.

(b) A reserve officer who is promoted under chapter 549 of title 10 to a grade above lieutenant (junior grade) in the Naval Reserve or above first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the grade to which promoted for duty performed from the date on which he became eligible for promotion to that grade. However, if an officer has not established his professional and moral qualifications, as prescribed by the Secretary of the Navy under section 5867 of title 10, within one year after the date on which the President approved the report of the selection board that recommended him for promotion, he is entitled to the pay and allowances of the grade to which promoted only from the date he is appointed in that grade.

(c) A reserve officer who is promoted under section 5908 of title 10 to the grade of lieutenant (junior grade) in the Naval Reserve or first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the higher grade for duty performed from the date given him as his date of rank.

(d) An officer of the Navy or Marine Corps who is promoted under section 5788 of title 10 is entitled to the pay and allowances of the higher grade from his date of rank in that grade unless he is entitled to them from an earlier date under another law.

(e) A woman officer temporarily promoted under section 5787b of title 10 is entitled to the pay and allowances of the higher grade from the date of her eligibility for that temporary promotion.

(f) An officer appointed in a higher grade under section 5505 of title 10 is entitled to the pay and allowances of the higher grade from the date of his appointment in that grade.

(g) A member of the naval service who is appointed under section 5597 of title 10 is entitled to the pay and allowances of the grade in which appointed from the date that appointment is made. Such a person may not suffer a reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment, or a reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

(h) A member of the naval service who is appointed under section 5787 of title 10 is entitled to the pay and allowances of the grade in which appointed from the date that appointment is made. Such a member may not suffer a reduction in the pay and allowances to which he was entitled at the time of his appointment.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 488.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
905(a)	10:6141.	[None.]
905(b)	10:5907.	[None.]
905(c)	10:5908(a) (last sentence).	[None.]
905(d)	10:5788(c).	[None.]
905(e)	10:5787b(c).	[None.]
905(f)	10:5505(c).	[None.]
905(g)	10:5597(h) (last sentence).	[None.]
	10:5597(i) (last 21 words).	[None.]
905(h)	10:5787(g) (last 21 words).	[None.]
	10:5787(h) (last sentence).	[None.]

§ 906. Extension of enlistment: effect on pay and allowances

A member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, who extends his enlistment under section 509 of title 10 is entitled to the same pay and allowances as though he had reenlisted. For the purposes of determining entitlement to reenlistment bonus or to travel and transportation allowances upon discharge, all such extensions of an enlistment are considered one continuous extension.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 489; Pub. L. 90-235, § 2(c), Jan. 2, 1968, 81 Stat. 757.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
906(a)	10:3263(b).	[None.]
	10:8263(b).	[None.]
906(b)	10:5539(b).	[None.]

In subsection (a), the words "who extends his enlistment" are substituted for the words "While serving under an enlistment extended". The words "same pay and allowances as though he had reenlisted" are substituted for the last 31 words of section 3263(b) of title 10 and the last 31 words of section 8263(b) of title 10.

AMENDMENTS

1968—Pub. L. 90-235 struck out provisions formerly set out as subsec. (a) which provided that a member of the Army or Air Force who had extended his enlistment was entitled to the same pay as though he had reenlisted, redesignated as entire section provisions formerly set out as subsec. (b) and substituted "Army, Navy, Air Force, Marine Corps, or Coast Guard" for "Regular Navy or the Regular Marine Corps" and "section 509 of title 10" for "section 5539 of title 10" therein.

§ 907. Enlisted members appointed as officers; pay and allowances stabilized

An enlisted member who accepts a permanent or temporary appointment as an officer in a regular or reserve component of a uniformed

service shall, following his appointment, be paid the greater of—

(1) the pay and allowances to which, immediately prior to his appointment, he was entitled as an enlisted member, including—

(A) proficiency pay to which he would be entitled had he not been appointed as an officer; and

(B) clothing allowance, except when such member is eligible for payment of a uniform allowance as provided in section 415 of this title; or

(2) the pay and allowances to which he thereafter becomes entitled as an officer.

However, proficiency pay, incentive pay for hazardous duty, special pay for diving duty, and sea and foreign duty pay may be used in calculating the amount of his former pay and allowances only for so long as the member continues to perform the duty and would be eligible to receive payment had he remained in his former status.

(Added Pub. L. 91-484, § 1(1), Oct. 21, 1970, 84 Stat. 1083.)

CHAPTER 19—ADMINISTRATION

Sec.
1001. Regulations relating to pay and allowances.
1002. Additional training or duty without pay: Reserves and members of National Guard.
1003. Assimilation of pay and allowances.
1004. Computation of pay and allowances for month or part of month.
1005. Army and Air Force; prompt payments required.[1]
1006. Advance payments.
1007. Deductions from pay.
1008. Presidential recommendations concerning adjustments and changes in pay and allowances.
1009. Adjustments of compensation.

AMENDMENTS

1974—Pub. L. 93-419, § 4, Sept. 19, 1974, 88 Stat. 1152, added item 1009.

1965—Pub. L. 89-132, § 2(b), Aug. 21, 1965, 79 Stat. 547, added item 1008.

§ 1001. Regulations relating to pay and allowances

(a) A Secretary of a military department may not prescribe a regulation under this title or any other law, relating to the pay and allowances of members of an armed force under that department, unless it has been approved under procedures prescribed by the Secretary of Defense.

(b) Regulations of the Secretary concerned relating to pay and allowances matters, similar to those covered by subsection (a) of this section, for members of the Coast Guard, the Environmental Science Services Administration, and the Public Health Service, shall, as far as practicable, conform to regulations approved under that subsection.

(c) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health, Education, and Welfare, may obtain from the Comptroller General an advisory opinion with respect to a proposed regulation especially affecting a department under that Secretary's jurisdiction.

[1] So in original. Does not conform to section catchline.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 489; Pub. L. 89-718, §§ 49(a)(1), 69, Nov. 2, 1966, 80 Stat. 1121, 1123; Pub. L. 90-623, § 3(1), Oct. 22, 1968, 82 Stat. 1314.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1001(a)	37:324 (1st sentence).	Oct. 12, 1949, ch. 681, § 534; added Sept. 2, 1957, Pub. L. 85-272, § 4, 71 Stat. 597.
1001(b)	37:324 (2d sentence).	
1001(c)	37:324 (less 1st and 2d sentences).	

In subsection (a), the words "within the Department of Defense" are omitted as surplusage. The words "members of the armed forces" are substituted for the words "military personnel".

In subsection (b), the words "conform to" are substituted for the words "agree with".

In subsection (c), the words "or departments" are omitted, since, under section 1 of title 1, words importing the singular include and apply to several persons, parties, or things.

AMENDMENTS

1968—Subsec. (c). Pub. L. 90-623 substituted "Secretary of Transportation" for "Secretary of the Treasury".

1966—Subsec. (b). Pub. L. 89-718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey", and inserted "and allowances" between "pay" and "matters".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

§ 1002. Additional training or duty without pay: Reserves and members of National Guard

(a) A member of the National Guard, or of a reserve component of a uniformed service, may, with his consent, be given additional training or other duty as provided by law, without pay, as may be authorized by the Secretary concerned.

(b) A member who performs training or other duty without pay under subsection (a) of this section may, in the discretion of the Secretary concerned, be authorized the travel and transportation allowances prescribed by section 404(a)-(d), and (f), of this title for travel performed to and from that training or duty, and, during the performance of that training or duty, be furnished with subsistence and quarters in kind or commutation thereof at a rate to be fixed by the Secretary concerned.

(c) This section does not authorize compensation for work or study performed by a member of a reserve component in connection with correspondence courses of an armed force.

(d) This section does not apply to a member who is entitled to basic pay under chapter 3 of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 489.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1002(a)	37:301(b) (1st sentence, less last 75 words).	Oct. 12, 1949, ch. 681, § 501(b), (e) (as applicable to duty without pay), 63 Stat. 826, 827; Aug. 10, 1956, ch. 1041, § 20(f), 70A Stat. 629; June 30, 1960, Pub. L. 86-559, § 8, 74 Stat. 282; Aug. 25, 1961, Pub. L. 87-164, 75 Stat. 401.
1002(b)	37:301(b) (last 75 words of 1st sentence).	
1002(c)	37:301(b) (less 1st sentence).	
1002(d)	37:301(e) (as applicable to duty without pay).	

In subsection (a), the words "A member of the National Guard, or of a reserve component" are substituted for the enumeration of those reserve categories to conform to other sections of this revised title.

In subsection (b), the words "section 404(a)-(d), and (f), of this title" are substituted for the words "section 253(a) of this title" to reflect the section of this revised title which restates that section.

Subsection (d) is substituted for section 301(e) of existing title 37.

TRANSFER OF FUNCTIONS

See Transfer of Functions notes under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 698a.

§ 1003. Assimilation of pay and allowances

Chapters 3 and 5 and sections 402-407, 409-411, and 414 of this title apply equally to persons who are not serving as members of a uniformed service but whose pay or allowances, or both, are assimilated under law or a regulation prescribed under law, to the pay or allowances, or both, of commissioned officers, warrant officers, or enlisted members of any grade, rank, or rating in any uniformed service.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 490.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1003	37:309.	Oct. 12, 1949, ch. 681, § 509; restated May 19, 1952, ch. 310, § 3, 66 Stat. 80.

§ 1004. Computation of pay and allowances for month or part of month

A member of a uniformed service who is entitled to pay and allowances under this title for a continuous period of less than one month is entitled to his pay and allowances for each day of that period at the rate of 1/30 of the monthly amount of his pay and allowances. The thirty-first day of a calendar month may not be excluded from a computation under this section.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 490.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1004	37:310.	Oct. 12, 1949, ch. 681, § 510, 63 Stat. 828.

§ 1005. Army and Air Force: prompt payments required

Members of the Army and of the Air Force shall be paid at such times that arrears will at no time be more than two months, unless circumstances make further arrears unavoidable.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 490.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1005	37:310b.	R.S. 1189.

The applicability of this section to members of the Air Force is based on Department of Defense Transfer Order No. 25, dated October 14, 1948.

§ 1006. Advance payments

(a) Under regulations prescribed by the Secretary concerned, not more than three months' pay may be paid in advance to a member of an armed force upon his change of permanent station.

(b) Under regulations prescribed by the Secretary concerned, a member of an armed force who is on duty at a distant station where the pay and emoluments to which he is entitled cannot be disbursed regularly, may be paid in advance.

(c) Under regulations prescribed by the Secretary concerned, an advance of pay to a member of an armed force who is on duty outside the United States, or other place designated by the President, of not more than two months' basic pay may be made directly to his previously designated dependents who are ordered evacuated by competent authority. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b) of this section, and may be made only if all dependents of members of the armed forces are ordered evacuated from the place where the member's dependents are located. The Secretary concerned or his designee may waive any right of recovery of not more than one month's basic pay advanced under this subsection if he finds that recovery of the advance would be against equity and good conscience or against the public interest.

(d) If a person to whom an advance of pay is made under subsection (a), (b), or (c) of this section dies or is separated from his armed force, before liquidation of that advance, the amount remaining unliquidated at the time of his death or separation shall be credited to the account of the disbursing officer concerned. However, the unliquidated amount remains a debt of that person or his estate to the United States.

(e) As far as practicable, regulations for the administration of subsections (a)–(d) of this section shall be uniform for all of the armed forces.

(f) Under regulations prescribed by the Secretary of Transportation, an advance of pay of not more than three months' pay may be made to an officer of the Coast Guard who is ordered to sea duty or to or from shore duty beyond the seas. In addition, the Commandant of the Coast Guard may direct such advances as he considers necessary and proper to members of the Coast Guard stationed at distant stations where the pay and emoluments to which they are entitled cannot be paid regularly.

(g) Under regulations prescribed by the Secretary concerned, the dislocation allowance authorized by section 407 of this title for a member of a uniformed service whose dependents are covered by section 405a(a) of this title may be paid in advance of the evacuation of the dependents and to the dependents designated by the member.

(h) Notwithstanding section 529 of title 31, the Secretary concerned may, when the last lay of the pay period falls on a Saturday, Sunday, or legal holiday, authorize the payment of pay and allowances to members of an armed force under his jurisdiction on the preceding workday but not more than three days before the last day of that pay period. If a member dies after he has received an advance payment under this subsection, but before the last day of the pay period for which the payment is made, no part of the amount so advanced is recoverable by the United States.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 490; Pub. L. 89–26, § 1(6), May 22, 1965, 79 Stat. 117; Pub. L. 89–193, Sept. 21, 1965, 79 Stat. 823; Pub. L. 89–718, § 70, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90–623, § 3(1), (9), Oct. 22, 1968, 82 Stat. 1314, 1315.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1006(a).....	37:310c(a).	Oct. 5, 1949, ch. 600, § 1, 63 Stat. 703.
1006(b).....	37:319c(b).	Oct. 5, 1949, ch. 600, § 2; added Aug. 30, 1961, Pub. L. 87–188, § 1, 75 Stat. 416.
1006(c).....	37:310c–1.	Oct. 5, 1949, ch. 600, § 2, 63 Stat. 704; redesignated as section 3, Aug. 30, 1961, Pub. L. 87–188, § 2, 75 Stat. 416.
1006(d).....	37:310d.	
1006(e).....	37:310c (less (a) and (b)).	
1006(f).....	14:465.	[None.]

In subsections (a) and (b), the words "a member of an armed force" are substituted for the words "commissioned and warrant officers, and enlisted men of the armed services." The words "Secretary concerned" are substituted for the words "heads of the departments concerned" to conform to the definition in section 101(5) of this revised title.

In subsection (b), the words "may be paid in advance" are substituted for the words "may have their pay and emoluments advanced".

In subsection (c), the words "Secretary concerned" are substituted for the words "heads of the departments concerned" to conform to the definition in section 101(5) of this revised title. The words "member of an armed force" are substituted for the words "members of the armed services". The words "who are" are substituted for the words "in the event such dependents are". The words "under subsection (a) or (b) of this section" are substituted for the words "in section 310c of this title" to reflect the section of this revised title which restates that section. The words "dependents of members of the armed forces" are substituted for the words "military dependents." The words "at a place" are omitted as surplusage.

In subsection (d), the words "If a" are substituted for the words "In the event the". The words "credited to the account" are substituted for the words "passed to credit in the account".

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–623, § 3(9), substituted "change of permanent station" for "permanent change of station".

Subsec. (f). Pub. L. 90–623, § 3(1), substituted "Secretary of Transportation" for "Secretary of the Treasury".

1966—Subsec. (h). Pub. L. 89–718 redesignated as subsec. (h) the subsection relating to advance payment of pay and allowances when the last day of the pay period falls on a Saturday, Sunday, or legal holiday, formerly designated as subsec. (g).

1965—Subsec. (c). Pub. L. 89–26, § 1(6)(A), empowered the Secretary concerned or his designee to waive any right of recovery of not more than one month's basic pay advanced if he finds that recovery of the advance would be against equity and good conscience or against the public interest.

Subsec. (g). Pub. L. 89–193 added subsec. (g), relating to the payment of pay and allowances when the last day of the pay period falls on a Saturday, Sunday, or legal holiday.

Pub. L. 89–26, § 1(6)(B), added subsec. (g), relating to advance payment of the dislocation allowance.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–26, effective Feb. 1, 1965, see section 2 of Pub. L. 89–26, as amended by section 1 of Pub. L. 89–608, Sept. 30, 1966, 80 Stat. 851; Pub. L. 92–176, Dec. 2, 1971, 85 Stat. 494, set out as an Effective Date note under section 405a of this title.

TRANSFER OF FUNCTIONS

See Transfer of Function notes under section 401 of this title.

FISCAL YEAR OF RECORDATION OF OBLIGATIONS

Pub. L. 94–212, title VII, § 744, Feb. 9, 1976, 90 Stat. 175, provided that: "Obligations hereafter incurred for advance payments of pay and allowances pursuant to section 1006 of title 37, United States Code, shall be recorded as obligations only in the fiscal year in which such payments are earned."

§ 1007. Deductions from pay

(a) The pay of an officer of an armed force may be withheld, under section 5512 of title 5, only for an indebtedness to the United States admitted by the officer or shown by the judgment of a court, or upon a special order issued in the discretion of the Secretary concerned.

(b) An amount due to the United States from an enlisted member of the Army or the Air Force for articles sold to him on credit under section 4621(a)(1) or 9621(a)(1) of title 10, as the case may be, shall be deducted from the next pay due him after the sale is reported. An amount due the United States from an enlisted member of the Army or the Air Force for tobacco sold to him by the United States under section 4623 or 9623 of title 10 shall be deducted from his pay in the manner provided for the settlement of clothing accounts.

(c) Under regulations prescribed by the Secretary concerned, an amount that an enlisted member of the Army or the Air Force is administratively determined to owe the United States or any of its instrumentalities may be deducted from his pay in monthly installments. However, after the deduction of pay forfeited by the sentence of a court-martial, if any, or otherwise authorized by law to be withheld, the deductions authorized by this section may not reduce the pay actually received for any month to less than one-third of his pay for that month.

(d) Subject to subsection (c) of this section, an amount due the United States from an enlisted member of the Army or the Air Force may be deducted from his pay on final statement, or from his savings on his clothing allowance.

(e) The amount of any damage, or cost of repairs, to arms or equipment caused by the abuse or negligence of a member of the Army or the Air Force, as the case may be, who had the care of, or was using, the property when it was damaged, shall be deducted from his pay.

(f) If, upon final settlement of the accounts of an officer of the Army or the Air Force charged with the issue of an article of military supply, there is a deficiency of that article, or if an article of military supply with whose issue an officer is charged is damaged, the value of the lost article or the amount of the damage shall be charged against the officer and deducted from his monthly pay, unless he shows to the satisfaction of the Secretary of the Army or the Secretary of the Air Force, as the case may be, by one or more affidavits setting forth the circumstances, that he was not at fault.

(g) An amount due the United States from an officer of the Army or the Air Force for rations bought on credit, and for articles bought on credit under section 4621(a)(1) or 9621(a)(1) of title 10, shall be deducted from the next pay due that officer after the sale is reported.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 491; Pub. L. 89-718, §§ 71, 72, Nov. 2, 1966, 80 Stat. 1124; Pub. L. 90-83, § 5(3), Sept. 11, 1967, 81 Stat. 221.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1007(a)	10:2772.	[None.]
	14:461(b).	[None.]
1007(b)	10:4837(a).	[None.]
	10:9837(a).	[None.]
1007(c)	10:4837(b).	[None.]
	10:9837(b).	[None.]
1007(d)	10:4837(c).	[None.]
	10:9837(c).	[None.]
1007(e)	10:4837(e).	[None.]
	10:9837(e).	[None.]
1007(f)	10:4837(f).	[None.]
	10:9837(f).	[None.]
1007(g)	10:4837(g).	[None.]
	10:9837(g).	[None.]

REFERENCES IN TEXT

Section 4623 of title 10, referred to in subsec. (b), was repealed by Pub. L. 91-482, § 1(a), Oct. 21, 1970, 84 Stat. 1082.

AMENDMENTS

1967—Subsec. (b). Pub. L. 90-83 struck out requirement that, in the case of a member of the Army, the report be made to the Chief of Finance.

1966—Subsec. (a). Pub. L. 89-718, § 71, substituted "section 5512 of title 5" for "section 82 of title 5".

Subsec. (c). Pub. L. 89-718, § 72, substituted "pay" for "basic pay" as the amount which cannot be reduced below one-third through deductions from enlisted men of the Army or Air Force who have been administratively determined to owe the United States, payable by deductions in monthly installments.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 1655 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5514.

§ 1008. Presidential recommendations concerning adjustments and changes in pay and allowances

(a) The President shall direct an annual review of the adequacy of the pays and allowances authorized by this title for members of the uniformed services. Upon completion of this review, but not later than March 31 of each year, the President shall submit to Congress a detailed report summarizing the results of such annual review together with any recommendations for adjustments in the rates of pay and allowances authorized by this title.

(b) Whenever the President considers it appropriate, but in no event later than January 1, 1967, and not less than once each four years thereafter, he shall direct a complete review of the principles and concepts of the compensation system for members of the uniformed services. Upon completion of such review he shall submit a detailed report to Congress summarizing the results of such review together with any recommendations he may have proposing changes in the statutory salary system and other elements of the compensation structure provided members of the uniformed services.

(Added Pub. L. 89-132, § 2(a), Aug. 21, 1965, 79 Stat. 546.)

EFFECTIVE DATE

Section effective on Sept. 1, 1965, see section 10 of Pub. L. 89-132, set out as an Effective Date of 1965 Amendment note under section 203 of this title.

§ 1009. Adjustments of compensation

(a) Whenever the General Schedule of compensation for Federal classified employees as contained in section 5332 of title 5, United States Code, is adjusted upward, the President shall immediately make an upward adjustment in the—

(1) monthly basic pay authorized members of the uniformed services by section 203(a) of this title;

(2) basic allowance for subsistence authorized enlisted members and officers by section 402 of this title; and

(3) basic allowance for quarters authorized members of the uniformed services by section 403(a) of this title.

(b) An adjustment under this section shall have the force and effect of law and shall—

(1) carry the same effective date as that applying to the compensation adjustments provided General Schedule employees;

(2) be based on the rates of the various elements of compensation as defined in, or made under, section 8 of the Act of December 16, 1967 (Public Law 90-207; 81 Stat. 654), section 402 or 403 of this title, or this section; and

(3) subject to subsection (c), provide all eligible members with an increase in each element of compensation, set forth in subsection (a) of this section, which is of the same percentage as the overall average percentage increase in the General Schedule rates of basic pay for civilian employees.

(c) Whenever the President determines such action to be in the best interest of the Government, he is authorized to allocate the overall average percentage of any increase described in subsection (b)(3) among the elements of compensation specified in subsection (a) on a percentage basis other than an equal percentage basis; however, the amount allocated to the element of monthly basic pay may not be less than 75 per centum of the amount that would have been allocated to the element of basic pay under subsection (b)(3).

(d) Under regulations prescribed by the President, whenever the President exercises his authority under subsection (c) to allocate the elements of compensation specified in subsection (a) on a percentage basis other than an equal percentage basis, he may pay to each member without dependents who, under section 403(b) or (c), is not entitled to receive a basic allowance for quarters, an amount equal to the difference between (1) the amount of such increase under subsection (c) in the amount of the basic allowance for quarters which, but for section 403(b) or (c), such member would be entitled to receive, and (2) the amount by which such basic allowance for quarters would have been increased under subsection (b)(3) if the President had not exercised such authority.

(e) Whenever the President plans to exercise his authority under subsection (c) with respect to any anticipated increase in the compensation of members of the uniformed services, he shall advise the Congress, at the earliest practicable time prior to the effective date of such increase, regarding the proposed allocation of such increase among the different elements of compensation.

(f) The allocations of increases made under this section among the three elements of compensation shall be assessed in conjunction with the quadrennial review of military compensation required by section 1008(b), and a full report shall be made to the Congress summarizing the objectives and results of those allocations.

(Added Pub. L. 93-419, § 4, Sept. 19, 1974, 88 Stat. 1152, and amended Pub. L. 94-361, title III, § 303, July 14, 1976, 90 Stat. 925.)

REFERENCES IN TEXT

Section 8 of the Act of December 16, 1967 (Public Law 90-207; 81 Stat. 654), referred to in subsec. (b)(2), was set out as a note under section 203 of this title, and was repealed by section 8 of Pub. L. 93-419.

AMENDMENTS

1976—Subsec. (b)(3). Pub. L. 94-361, § 303(a), inserted introductory phrase "subject to subsection (c),".

Subsecs. (c) to (f). Pub. L. 94-361, § 303(b), added subsecs. (c) to (f).

EFFECTIVE DATE

Section 9 of Pub. L. 93-419 provided that: "This Act [enacting this section, amending sections 101, 203, 402, and 403 of this title, and enacting provisions set out as notes under this section] is effective upon enactment [Sept. 19, 1974]."

LIMITS OF UPWARD ADJUSTMENT OF COMPENSATION

Pub. L. 94-106, title VIII, § 819, Oct. 7, 1975, 89 Stat. 544, provided that:

"(a) Notwithstanding any other provision of law, the aggregate amount of any upward adjustments in certain elements of compensation of members of the uniformed services required by section 1009 of title 37, United States Code, may not exceed 5 per centum during the period from January 1, 1975, through June 30, 1976, except that no such restriction shall apply unless a 5 per centum restriction on the aggregate amount of upward adjustments of the General Schedule of compensation for Federal classified employees as contained in section 5332 of title 5, United States Code, is also required during that period.

"(b) No reduction in compensation is required under subsection (a) of any upward adjustment that may have been put into effect under section 1009 of title 37, United States Code, between January 1, 1975, and the date of enactment of this section [Oct. 7, 1975].

"(c) Any upward adjustment in compensation which has been limited by subsection (a) of this section to an amount or amounts less than otherwise would have been in effect shall not be increased subsequent to June 30, 1976—

"(1) in order to compensate a member for the difference between the amounts he has received under the provisions of subsection (a) and the amounts he would have otherwise received; or

"(2) except in accordance with the normal procedures and timing which would have been in effect for any such pay increase subsequent to June 30, 1976, without regard to any limitation under subsection (a) of this section."

RATES OF MONTHLY BASIC PAY

Section 5 of Pub. L. 93-419 provided that: "Until the effective date of the first upward adjustment in the rates of monthly basic pay for members of the uniformed services made by the President under section 1009 of title 37, United States Code, as added by section 4 of this Act, after the effective date of this Act

[Sept. 19, 1974], the rates of monthly basic pay for members of the uniformed services authorized by section 203(a) of that title are those prescribed by Executive Order 11740 of October 3, 1973, which became effective on October 1, 1973."

Rates of Basic Allowance for Subsistence

Section 6 of Pub. L. 93-419 provided that: "Until the effective date of the first upward adjustment in the rates of basic allowance for subsistence for enlisted members and officers made by the President under section 1009 of title 37, United States Code, as added by section 4 of this Act, after the effective date of this Act [Sept. 19, 1974], the rates prescribed under section 402 of title 37, United States Code, as it existed on the date before the effective date of this Act, shall continue in effect."

Rates of Basic Allowance for Quarters

Section 7 of Pub. L. 93-419 provided that: "Until the effective date of the first adjustment in the rates of basic allowance for quarters for members of the uniformed services made by the President under section 1009 of title 37, United States Code, as added by section 4 of this Act, after the effective date of this Act [Sept. 19, 1974], the rates of basic allowance for quarters prescribed in section 403(a) of title 37, United States Code, as it existed on the day before the effective date of this Act, shall continue in effect."

Adjustment of Pay Rates Effective October 1, 1976

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under section 5332 of Title 5, Government Organization and Employees, provided for an adjustment of pay rates under this section effective Oct. 1, 1976. See Schedule set out below:

Schedule 4

Pay and Allowances of the Uniformed Services

Part I—Monthly Basic Pay

(Years of service computed under 37 U.S.C. 205)

Commissioned Officers

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-10[1]	$2943.90	$3047.40	$3047.40	$3047.40	$3047.40
O-9	2609.10	2677.80	2734.50	2734.50	2734.50
O-8	2363.10	2433.90	2491.80	2491.80	2491.80
O-7	1963.50	2097.30	2097.30	2097.30	2190.90
O-6	1455.30	1599.30	1703.40	1703.40	1703.40
O-5	1164.00	1367.10	1461.30	1461.30	1461.30
O-4	981.30	1194.30	1274.70	1274.70	1297.80
O-3[2]	912.00	1019.40	1089.60	1205.70	1263.30
O-2[2]	795.00	868.50	1043.10	1078.20	1100.70
O-1[2]	690.00	718.50	868.50	868.50	868.50

	Over 8	Over 10	Over 12	Over 14	Over 16
O-10[1]	$3164.10	$3164.10	$3406.80	$3406.80	$3650.40
O-9	2804.10	2004.10	2920.20	2920.20	3164.10
O-8	2677.80	2677.80	2804.10	2804.10	2920.20
O-7	2190.90	2318.40	2318.40	2433.90	2677.80
O-6	1703.40	1703.40	1703.40	1761.30	2040.30
O-5	1461.30	1506.00	1586.40	1692.30	1819.50
O-4	1355.70	1447.80	1529.40	1599.30	1668.90
O-3[2]	1308.90	1379.10	1447.80	1483.20	1483.20
O-2[2]	1100.70	1100.70	1100.70	1100.70	1100.70
O-1[2]	868.50	868.50	868.50	868.50	868.50

	Over 18	Over 20	Over 22	Over 26	Over 30
O-10[1]	*$3650.40	*$3894.60	*$3894.60	*$4137.30	*$4137.30
O-9	3164.10	*3406.80	*3406.80	*3650.40	*3650.40
O-8	3047.40	3164.10	3291.00	3291.00	3291.00
O-7	2861.70	2861.70	2861.70	2861.70	2861.70
O-6	2144.70	2190.90	2318.40	2514.00	2514.00
O-5	1923.90	1981.80	2051.40	2051.40	2051.40
O-4	1715.40	1715.40	1715.40	1715.40	1715.40
O-3[2]	1483.20	1483.20	1483.20	1483.20	1483.20
O-2[2]	1100.70	1100.70	1100.70	1100.70	1100.70
O-1[2]	868.50	868.50	868.50	868.50	868.50

[1]While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is $4565.10* regardless of cumulative years of service computed under Section 205 of Title 37 of the United States Code.

[2]Does not apply to commissioned officers who have been credited with over 4 years' active service as enlisted members.

*Basic pay is limited by Section 5308 of Title 5 of the United States Code, as added by the Federal Pay Comparability Act of 1970, to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $3300.00 per month.

Commissioned officers who have been credited with over 4 years' active service as enlisted members

(Years of service computed under section 205)

Pay Grade	Over 4	Over 6	Over 8	Over 10
O-3	$1205.70	$1263.30	$1308.90	$1379.10
O-2	1078.20	1100.70	1135.50	1194.30
O-1	868.50	927.30	961.80	996.60

	Over 12	Over 14	Over 16	Over 18
O-3	$1447.80	$1506.00	$1506.00	$1506.00
O-2	1240.50	1274.70	1274.70	1274.70
O-1	1031.40	1078.20	1078.20	1078.20

	Over 20	Over 22	Over 26	Over 30
O-3	$1506.00	$1506.00	$1506.00	$1506.00
O-2	1274.70	1274.70	1274.70	1274.70
O-1	1078.20	1078.20	1078.20	1078.20

Warrant Officers

(Years of service computed under section 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W-4	$928.80	$996.60	$996.60	$1019.40	$1065.90
W-3	844.50	916.20	916.20	927.30	938.40
W-2	739.50	799.80	799.80	823.20	868.50
W-1	616.20	706.50	706.50	765.30	799.80

	Over 8	Over 10	Over 12	Over 14	Over 16
W-4	$1111.70	$1159.20	$1240.50	$1297.80	$1343.70
W-3	1007.10	1065.90	1100.70	1135.50	1169.40
W-2	916.20	950.70	985.20	1019.40	1055.10
W-1	834.60	868.50	904.20	938.40	973.20

	Over 18	Over 20	Over 22	Over 26	Over 30
W-4	$1379.10	$1424.70	$1472.10	$1586.40	$1586.40
W-3	1205.70	1252.20	1297.80	1343.70	1343.70
W-2	1089.60	1124.10	1169.40	1169.40	1169.40
W-1	1007.10	1043.10	1043.10	1043.10	1043.10

Enlisted Members

(Years of service computed under section 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E-9[1]	0	0	0	0	0
E-8	0	0	0	0	0
E-7	$618.30	$667.20	$692.10	$716.10	$741.00
E-6	534.00	582.30	606.60	631.80	655.50
E-5	468.90	510.30	534.90	558.30	594.60
E-4	450.60	475.80	503.70	543.00	564.30
E-3	433.20	457.20	475.50	494.40	494.40
E-2	417.30	417.30	417.30	417.30	417.30
E-1	374.40	374.40	374.40	374.40	374.40

Pay Grade	Over 8	Over 10	Over 12	Over 14	Over 16
E-9[1]	0	$1055.40	$1079.40	$1104.00	$1129.50
E-8	$885.60	910.20	934.50	959.10	984.00
E-7	764.10	788.40	813.30	849.90	873.90
E-6	679.80	704.40	741.00	764.10	788.40
E-5	618.90	643.80	667.20	679.80	679.80
E-4	564.30	564.30	564.30	564.30	564.30
E-3	494.40	494.40	494.40	494.40	494.40
E-2	417.30	417.30	417.30	417.30	417.30
E-1	374.40	374.40	374.40	374.40	374.40

Pay Grade	Over 18	Over 20	Over 22	Over 26	Over 30
E-9[1]	$1154.10	$1176.90	$1239.00	$1359.00	$1359.00
E-8	1006.80	1031.70	1092.00	1214.10	1214.10
E-7	898.50	910.20	971.40	1092.00	1092.00
E-6	800.70	800.70	800.70	800.70	800.70
E-5	679.80	679.80	679.80	679.80	679.80
E-4	564.30	564.30	564.30	564.30	564.30
E-3	494.40	494.40	494.40	494.40	494.40
E-2	417.30	417.30	417.30	417.30	417.30
E-1	374.40	374.40	374.40	374.40	374.40

[1] While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $1652.10 regardless of cumulative years of service computed under Section 205 of Title 37 of the United States Code.

PART II—BASIC ALLOWANCE FOR SUBSISTENCE RATES

Officers	$55.61 per month.
Enlisted Members:	
When on leave or authorized to mess separately.	2.65 per day.
When rations in-kind are not available.	2.99 per day.
When assigned to duty under emergency conditions where no messing facilities of the United States are available.	3.97 per day.

PART III—MONTHLY BASIC ALLOWANCE FOR QUARTERS RATES

Pay Grade	Without dependents		With dependents
	Full rate[1]	Partial rate[2]	
Commissioned Officers:			
O-10	$297.00	$29.40	$371.40
O-9	297.00	29.40	371.40
O-8	297.00	29.40	371.40
O-7	297.00	29.40	371.40
O-6	268.80	22.80	327.90
O-5	249.30	19.20	300.30
O-4	222.90	15.30	269.10
O-3	196.80	12.90	242.70
O-2	171.30	10.20	216.90
O-1	133.80	7.50	174.30
Warrant Officers:			
W-4	$215.10	$14.70	$259.50
W-3	192.60	12.00	237.30
W-2	168.30	9.30	213.60
W-1	152.10	8.10	197.10
Enlisted Members:			
E-9	$162.60	$10.80	$228.60
E-8	150.30	8.70	212.40
E-7	128.40	6.90	198.30
E-6	117.00	5.70	183.00
E-5	112.50	4.80	168.30
E-4	99.30	4.50	147.90
E-3	88.50	4.50	128.40
E-2	78.30	4.20	128.40
E-1	73.80	3.90	128.40

[1] Payment of the full rate of basic allowance for quarters at these rates for members of the uniformed services to personnel without dependents is authorized by 37 U.S.C. 403 and Part IV of Executive Order No. 11157, as amended.

[2] Payment of the partial rate of basic allowance for quarters at these rates to members of the uniformed services without dependents who, under 37 U.S.C. 403(b) or 403(c), are not entitled to the full rate of basic allowance for quarters, is authorized by 37 U.S.C. 1009(d) and Part IV of Executive Order No. 11157, as amended.

EXECUTIVE ORDER No. 11812

Ex. Ord. No. 11812, Oct. 7, 1974, 39 F.R. 36307, formerly set out as note under this section, which provided for the adjustment of pay rates effective Oct. 1, 1974, was superseded by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091.

EXECUTIVE ORDER No. 11883

Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Oct. 1, 1975, was superseded by Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under section 5332 of Title 5, Government Organization Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 203, 402, 403 of this title.